United States Court of Appeals for the Second Circuit



APPENDIX

ORIGINAL

76:1111

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United States Court of Appeals For the Second Circuit

THE UNITED STATES OF AMERICA,

Appellee,

-against-

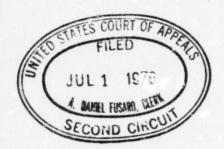
JOSEPH STASSI, a/k/a JOE ROGERS et al.,

Appellant.

On Appeal From The United States District Court For The Southern District Of New York

Appellant's Appendix

(Vol. III - Pages 699-1129)



ARNOLD E. WALLACH Attorney for Appellant 11 Park Place New York, N.Y. 10007 (212) 227-0959 PAGINATION AS IN ORIGINAL COPY

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in a Volkswagen, he told me, and in 1973 in May or June
in a camper, they brought some past the border guards in
a camper. He supervised that while he was in the penitentiary
He said, this is all being brought in under my orders.
This is my shipments coming in and if I can do that from
here, when I get out of here, I will be Mr. Narcotics of
the United States because I am putting an organization
together while I am in here that the FBI won't be able to
break down.

- Q Who was in this organiation?
- A Well, he was going around trying to get a lot of different prisoners from all parts who would volunteer to bring narcotics in from different points in the country.
- Q No, I am not talking about the people that he was trying to get. I want to know who he got.
- A He told me Mario was his general and Joe Condello was his captain.
- Q Did he have any enlisted men? I'm sorry, I didn't hear your answer, sir. I was being facetious, but I am being serious when I ask you whether he had any other workers inside.
 - A He never mentioned any.
- Q Did he ever mention people on the outside, people up in Canada or in Detroit?
- A He told me a friend of his had brought it from

1	eoh Lacaze-cross 3226
2	Canada to Detroit and that his uncle brought it from Detroit
3	to New York.
4	Q Did he tell you who this friend was?
5	A No, he didn't.
6	Q Did he tell you where they were getting the stuff
7	up in Canada?
8	A No, he didn't.
9	Q Did he tell you now, you have mentioned these
10	two deliveries. Did he talk about other deliveries?
11	A No, he was wanting to tell me that I could get in
12	on the bandwagon if I would get the New Orleans port by payin
13	off the harbor police, that would be my area. He would
14	control other areas and I could make a quarter of a million
15	dollars a year working for him controlling the New Orleans
16	area.
17	Q Where was this stuff going to come from that was
18	going to come into New Orleans?
19	A He never did say.
20	Q Did you ask him, did you say, look, Tony, I have
21	got to know if you have really got a source.
22	A Well, I didn't want to go ahead and press the
23	issue because he wanted me first to contact the longshoremens
24	down there bécause I had once worked on the docks and I
25	know some longshoremens down there. He wanted me to contact

1	eoh	Lacaze-cross	3228
2	A	None whatsoever.	
3	Q	As far as you knew he had complete contro	ol
4	over all	these people that were bringing the goods	in?
5	A	That is the way he implied it to me to	e that
6	he was in	complete control of it.	
7	Q	He didn't need any help other than your h	nelp down
8	in New Or	leans?	
9	A	That was just going to be in my area, he	said
10	he had ot	her areas he was taking care of.	
11	^	They were all covered?	
12	A	He didn't tell me that. He said that he	was
13	ha ing ot	her areas taken care of.	
14	Q	What did the general, Mario Perna, how di	id he
15	fit in on	this?	
16	A	Well, Mario, he is more or less a strong	arm fello
17	He would	hurt you bad if	
18		MR. GARLAND: Let him answer the question	n, please.
19	Q	Fine, continue.	
20	A	He would hurt you bad or he might even k	lll you
21	because h	e is that type of person.	
22	Q	What I am interested in, if the general v	vas going
23	to be the	strong arm, what impact would that have o	on the
24	people up	in Detroit that were bringing the goods in	in? Was

Mario supposedly doing nothing while he was in jail,

i: was only when he was going to get out?

A Well, he was more or less in the Atlanta penitentiary controlling the narcotics that was being sold there that everybody paid what they bought. In other words, you didn't buy and didn't pay. If you didn't pay, you got a terrific beating or you might even get killed because they had a lot of them that got killed over narcotics there. The records will show, I think --

THE COURT: He wants to know what did Mario have to do, if anything, with this outside operation?

THE WITNESS: I have no idea what he had to do with the outside operation, but what I am saying -- he had the inside, but Tony had told me that he would be his general outside as soon as he got out.

Q Would it be fair to say, then, that the only thing that you knew about this organization on the outside that was going to make Mr. Verzino the narcotic king of the United States was that there was a delivery in June of '72 involving people you don't know about, and a delivery in '73, the specifics of which you don't know about, is that a fair statement?

A And also the fact that he told me that he was going around the penitentiary getting prisoners that he thought would stand up under pressure from all points in the United

1	eoh Lacaze-cross 3230 redirect
2	States who would handle the incoming narcotics.
3	Q I believe I have asked this already, but just
4	for clarity, can you tell me any people other than the
5	general and the captain, Perna and Condello, that he did
6	get, that did join this organization?
7	A He wouldn't mention none of them to me, but he
8	told me he was recruiting them.
9	MR. SEAR: I have no more questions.
10	REDIRECT EXAMINATION
11	BY MR. GARLAND:
12	Q In all of his discussions about his narcotic
13	activities, did he ever mention Joseph Stassi being involved?
14	A No, sir, he never said Joe Stassi was ever involved
15	in any of them.
16	Q Did he discuss whether or not he and Condello
17	were selling inside the penitentiary?
18	MR. SEAR: Objection, your Honor.
19	A Yes, he did.
20	THE COURT: I don't remember that on cross.
21	MR. GARLAND: It was a part of the cross, your
22	Honor.
23	Q What did he say?
24	A . He said that Joe Condello was bringing in narcotics
25	smuggling in narcotics in on visiting days and that they

		. 50
T3 pm	1	ms Lacaze - direct 3232
	2	THE WITNESS: That night I said to him, I
	3	said, "What happened with you and the old man?"
	4	And he said, "That old bastard, I will either
	-5	kill him or I will frame him."
	6	He said, "Jake, about a year ago you remember
	7	me telling about giving up names?"
	8	I said, "Yes, I remember."
	9	He says, "Well, if I ever get caught or any of
	10	my top men get caught outside, doing anything, that old
	11	bastard's name is going at the top of the list, and we will
	12	name him as one of the bosses and let him try to get out
	13	of that jackpot."
	14	Q You testified about observing Stassi on the
	15	outside walking with Verzino. Did you live in the
	16	dormitory with Verzino?
	17	A Yes.
	18	Q How far away did that man live from you?
	19	A Not too far. I talked with him every day,
	20	every night.
	21	O Was Condello there with you?
	22	A Yes.
	23	O And Perna?
	24	A I am talking with them every day.
	25	Q So you talked with them together?

1	ms2	Lacaze - direct	3233
2	A	Yes.	
3	Q	You were locked up there?	
4	A	Yes.	
5	Q	And as to Stassi, was he locked up there?	
6	A	He didn't live there.	
7	Q	And he could not be in there with them when	
. 8	they were t	ogether and locked in there?	
9	A	No.	
10	Q	When you saw Stassi with Verzino he was out	
11	walking aro	und?	
12	A	Yes, sir.	
13	CROSS EXAMI	NATION	
14	BY MR. SEAR		
15	Q	Mr. Lacaze, did you learn that one of the	
16	things that	Mr. Verzinc did with respect to Mr. Stassi	after
17	he left jai	l was to take Mr. Stassi's daughter up to see	е .
18	Mr. Stassi's	s lawyer in Connecticut?	
19	A	I have no knowledge of that whatosever.	
20	Q	I take it that Mr. Verzino told you that the	3
21	first thing	he was going to do if he got caught, whether	-
22	Mr. Stassi v	was involved or not, the first thing he was	
23	going to do	was name him and implicate him in all his	

activities?

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1	ms3 Lacaze - cross
2	Q Did you see a lot of Mr. Condello?
3	A Yes, a lot of him.
4	Q And was Mr. Condello in jail with you the whole
5	time up until September, 1973, when he left prison?
6	A No, I think it was we were together in '69,
7	'68 or '69. Then he went to Lexington and them when he
8	came back from Laxington he was with me again in the
9	dormitory.
10	Q And he was doing all these things both before
11	and after he went away?
12	A That is correct.
13	MR. NADEN: May I inquire?
14	MR. GARLAND: Before he does that, may I
15	pose one question about Condello and the narcotics?
16	MR. SEAR: I would like to be heard on that.
17	THE COURT: We have had enough on that.
18	CROSS EXAMINATION
19	BY MR. NADEN:
20	Q My name is Naden. I represent Mr. Sorenson.
21	Did you know him in Atlanta?
22	A When I seen him I didn't recognize him. He
23	used to wear a crew cut and was a lot smaller. After I
24	got to seeing him I remember.
	att to also like in the same dormitory back in

1	ms 4	Lacaze - cross	32
2	1969?		
3	A	I really don't remember, to tell the truth,	
4	I really do	n't.	
5	Q	Did you know the name Bubby that he was called	d?
6	A	Yes, I remember.	
7	Q	Did Verzino e er tell you that he and Perna	
8	tried to re	cruit Bubby into their narcotics ring?	
9	A	I don't recall it.	
10	Q	You don't recall any conversations of that	
11	nature?		
12	A	No.	
13		MR. NADEN: Thank you very much.	
14		THE COURT: You may step down.	
15		THE WITNESS: Your Honor, may I say something?	,
16		THE COURT: No.	
17		THE WITNESS: I just wanted	
18		THE COURT: You may step down.	
19		(Witness excused.)	
20		MR. GARLAND: Your Honor, can we have a recess	?
21		THE COURT: Yes.	
22		(Jury excused.)	
23		MR. GARLAND: During the lunchon recess I was	
24	in the lock-	-up downstairs and this witness was present	
25	while I was	in the lock-up. I did not discuss his testi	-

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(Recess.)

(Jury in box.)

ladies and gentlemen, I sent out to find out what the man wanted to say, the last witness. I didn't allow him to say anything. Heavens knows what he might say, I thought. All the man wanted to say is to apologize to the ladies for having used the word "bastard". Apparently ha has not been around during this trial.

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N O R M A N R O T H M A N , called as a witness by the defendant Joseph Stassi, being first duly sworn, testified as follows:

DIRECT EXAMINATION

16 BY MR. GARLAND:

Q You are presently con fined to the Atlanta Penitentiary?

A Yes, sir.

O When did your incarceration there begin?

A August, 1972.

Q Prior to that time had you been in Atlanta

23 Penitentiary?

A Yes.

Q During what period of time was that, sir?

1	ms7	Rothman - direct	238
2	A	About '61 to '65, '66.	
3	Q	You were incarcerated in what year?	
4	A	August, 1972.	
5	Q	1972?	
6	A	'72.	
7	Q	During your incarceration did you come to know	r
8	Anthony Ver	rzino?	
9	A	Yes.	
10	Q	What name did you know him by?	
11	A	Tony Vaz.	
12	° Q	Did you ever have occasion to have any con-	
13	versations	with Tony Vaz concerning narcotics?	
14	A	Oh, yes, quite a few.	
15	2	How did that come about?	
16	A	Well, it just came about, I guess, just sitting	ıg
17	around hav	ing plain conversations in general, talking.	
18	Do you wan	t me to start from the beginning or	
19	Q	Tell us what he said when he was discussing	
20	narcotics?		
21	A	After I got to know him a while he approached	
22	me one day	and told me that he had seen me around with	
23	Latin peop	le quite a bit and he knew I lived in Micmi,	
24	that he ha	d a parther and a girl friend outside that were	
25	in the bus	iness and that he needed more merchandise, and	

that if I knew of any of the Latins that could make any connections for him or if I knew anybody on the outside that could make any connections for him he can buy more merchandise.

Q This would have been some time --

A Oh, I would say I got to know him walking around and talking with him and all about, oh, a couple of months after, two or three months after, when he approached me the first time.

Q What did he say he would do for you?

A Well, he told me if I can make a connection for him that there would be a -- we used an expression -- there would be a chunk for me, there would be something going for me, there would be money for me.

Q Did you accept his proposition? Or what transpired?

A I told him I didn't know anybody in the business, that I didn't know anything about the business,
and I told him that I would be honest with him, that I
didn't even care to discuss it because I was not interested.

Q Thereafter did you have any further conversations with him?

A Yes, we lived in the same dormitory; I lived

on the third floor and he lived on the fourth. It was an open dormitory. He used to come down and join the crowd, and every so often he would get me a loan. This is throughout the period of time. And he would keep telling me about what his partner Mario and his girl were doing outside, but they had one trouble, they couldn't get enough merchandise, and that I should think again if there was anybody who I could send him to or anybody in the place in the penitentiary there whom I knew among the Latins whom I could put him next to, and that he would make it worthwhile for me.

Well, I kept repeating not only once but a half dozen times that he kept approaching me, different times, I kept repeating I didn't know anybody in the business, I didn't care to hear about it, and just got disgusted. That is all he ever talked about.

Q Did he ever discuss with you having any narcotic in any place?

A Well, yes, as time went on -- I'm trying to think now -- as time went on it was several months before he went home or the early part of the summer of 1973 he came to me and he told me that if I knew anybody who had a boat, a boat captain that knew the waters, due to the fact that I lived in Miami for 25, 30 years and knowing

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all these Latins, that I certainly should have known a boat captain that had a boat, that they had put away quite a bit of merchandise on the Islands, and he needed a bot captain or somebody to get the merchandise over to the States. And I went through the same thing, telling him I knew nothing about any boat captains or was not interested and I didn't know anybody in the business.

He asked me if I knew a pilot who would have a plane or could get a plane and would fly over to the Islands and bring back the merchandise, and that, again, if I would do that and help him. He, in turn, would help me by making sure that i got some money for it, in other words, got a piece of the action. Again I had to refuse him by telling him I didn't know anybody, I knew nothing about narcotics and didn't know any pilot or boat captain that would get involved or knew anything about it or would get involved.

What is your present sentence on?

THE COURT: Why are you in jail?

THE WITNESS: Why am I here now?

THE COURT: Why are you in jail? Why are you

in Atlanta?

THE WITNESS: Do I have to answer these questions, Judge?

i	msll	Rothman - direct	3242
2	Q	What were you convicted of?	
3	А	Interstate transportation of securities.	
4	Ú.	How much longer is your sentence?	
5	Ä	Three more months.	
6	Q	You are here by subpoena, returnable by wr	it?
7	A	Yes, I came up here by writ.	
3	Q	During any of the conver ations you had wi	th
9	Mr. Verzino	did he ever mention Joseph Stassi?	
10	A	No.	
11	•	THE COURT: The answer is no?	
12		THE WITNESS: No.	
13		Is this water for me to drink?	
14		THE COURT: We will get you some water.	
15	Q	You know the defendant on trial, Joseph St	assi?
16	A	Yes, sir.	
17	Q	And you have known him in the Atlanta Peni	tentiary?
18	A	Yes.	
19	Q	And prior to the time that you went into t	he
20	Penitentiar	y?	
21	Λ	That is right.	
22		MR. GARLAND: That is all.	
23	CROSS EXAMI	NATION	
24	BY MR. SEAR	:	
25	Q	Mr. Rothman, did you commit a crime for wh	ich

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you were convicted involving stolen securities?

THE WITNESS: Again, your Honor, do I have to answer that question?

THE COURT: Do you want to take the Fifth?

THE WITNESS: Yes.

THE COURT: I will sustain it. He claims he does not wish to ar over because he might incriminate himself.

Q Just one other question:

Isn't it also true that there is another conviction for which you are in Atlanta, in addition to the one you told us about, involving income tax evasion?

A Again, I refuse to answer.

Right at the moment I am doing a tax conviction.

MR. SEAR: No further questions.

THE COURT: You had a conviction for interstate securities and then tax?

THE WITNESS: Yes.

THE COURT: Both convictions?

THE WITNESS: Yes.

THE COURT: And you don't want to say whether you are guilty?

MR. GARLAND: When does this sentence expire?

THE WITNESS: 'My original sentence has expired;

1	ms Rothman - cross 3244
2	I am now serving a tax sentence.
3	MR. GARLAND: When do you get out of jail?
4	THE WITNESS: In three mo nths.
5	THE COURT: Any further questions?
6	You may step down.
7	(Witness excused.)
8	
9	JOHN RAYMOND MALONE, called as a
10	witness by the defendant Joseph Stassi, being first
11	duly sworn, testified as follows:
12	DIRECT EXAMINATION
13	BY MR. GARLAND:
14	Q You are presently in the Atlanta Penitentiary?
15	A Yes, sir.
16	Q What are you serving a sentence for?
17	A Bank robbery.
18	Q Do you know the defendant Joseph Stassi?
19	A Not personally, no, sir.
20	Q Have you seen him?
21	Λ In Atlanta I met him, yes, sir.
22	Q Did you have occasion at any time to be in what
23	is known as West Street here in New York?
24	A Yes, sir.
25	Q Do you know Mario Perna?

friendly with me, and there were othes in there that knew

me also. So we became like a group, sort of looking after each other. Prisoners do. Eventually we began as the days went by to pace the ranges, because that is all there was to do day and evening.

Q Do what?

A Pace up and down the walkways in the jail.

That is all there was to do, and just talk or lay on your bunk and sleep.

Q Tell us what conversation you had?

Were pressuring him to help build a case against old man Stassi. Now, at this time I didn't know old man Stassi and he was not at the jail, and this is over a period of days, he is discussing the pressure that he is under, that the agents wanted him to put together some type of story to tie in with what they had in order to bring Mr. Stassi to trial.

Q Did he tell you what he could do?

A Yes, sir. He said that he held a key to his own freedom in his pocket. He told me that if he help bring Mr. Stassi to trial, even though he told me Mr. Stassi was innocent, but to gain his freedom he would do anything to gain his freedom, that he would lie.

Q Did he discuss with you his escape?

	and the same of th		
	Y		
H	24	Malone - direct 3	247
	Α.	His escape, yes, sir.	
X	Ď	Did he tell you what he would do to effectu	ate
	Ms esca	ape?	
-	A	I don't understand the question.	
	Q	Did he say what he would to if he was stopp	ed
	during h	his escape?	
1	A	He said that in the event that his escape	
	failed,	that he was going to use this to gain his freed	om.
-		(Continued on next page.)	

T4

1	eoh 1 Malone-direct 3248
2	Q Did he say what he would do if he were stopped
3	by a guard during his escape?
4	A Yes, sir.
5	Q What did he say he would do?
6	A Well, the man well, everybody knowed he
7	carried a knife always and he was known there as someone not to
8	fool with.
9	THE COURT: The question is what did he say he
10	would do.
11	THE WITNESS: He said he would kill anybody that
12	got in his way.
13	Q Did you see the knife?
14	A Yes, sir.
15	MR. GARLAND: That is all.
16	CROSS EXAMINATION
17	BY MR. NESLAND:
18	Q What were you doing in Atlanta the first time?
19	A I didn't hear the question.
20	Q What were you doing in Atlanta the first time
21	you were there, what were you there for?
22	A Robbery.
23	Q Armed bank robbery?
24	A Yes, sir.
25	Q How many years did you get on that one?

1	1	
1	eoh 2	Malone-cross 3249
2	A	20.
3	Q	Were you paroled?
4	A	Eventually, yes, sir.
5	Q	When were you paroled?
6	A	In 1967.
7	Q	1967?
8	A	Yes, sir.
9	Q	When did you come to Atlanta after you got out
10	in '67?	
11	A	'68.
12	Q	What did you come in for then?
13	A	Simple violation.
14	Q	What?
15	A	Leaving the jurisdiction.
16	Q	Parole violation?
17	A	Yes, sir.
18	Q	How long did you stay in Atlanta at that time?
19	A	Until 1971.
20	Q	Did you commit that armed bank robbery that you
21	were in t	here for?
22	Α	The one I was serving the violation for?
23		THE COURT: The one you were serving the
24	sentence	for?
25		THE WITNESS: The one I was serving the sentence in,

1	eoh 3	Malone-cross 3250
2	yes.	
3	Q	Then you were convicted after you got cut in 1971
4	of anothe	er armed bank robbery?
5	A	In 1974, yes, sir.
6	Q	You tried to rob \$358,000?
7	A	Did I try to rob it? I was found guilty of it,
8	yes, sir.	
9	Q	Did you commit that offense?
10	A	No.
11	Q	You didn't?
12	A	No.
13	Q	You weren't guilty of that one?
14	A	No, sir.
15	Q	That sentence did you get for that one?
16	A	20 years.
17	Q	One year?
18		THE COURT: 20.
19		THE WITNESS: 20.
20	Q	That is the one you are serving now?
21	A	Yes.
22	Q	You had all these discussions with Mario Perna
23	in August	and September, 1974?
24	A	Yes, sir.
25	Q	Agents were pressuring him?

1	eoh 4 Malone-cross 3251		
2	A That is what he said, yes.		
3	Q Did you ever see him meet with any agents?		
4	A Well, I seen him, he took a trip to Newark,		
5	New Jersey. That is where my case was being tried. He		
6	was in the same bull pen with me in Newark, New Jersey,		
7	and I did see some agents come down there and get him, yes,		
8	sir,		
9	Q And they interviewed him?		
10	A I didn't see the interview, no.		
11	Q Did he tell you they interviewed him?		
12	A He came back and he told me that he discussed		
13	another case, a narcotics case that he was involved with		
14	in New Jersey. I guess it wasn't the same one that he was		
15	involved in here.		
16	Q When he said he had the key in his pocket to		
17	the freedom, was he referring to the key that he went out of		
18	West Street with?		
19	A No, sir.		
20	Q He was telling you he was going to frame the old		
21	man Stassi?		
22	A Yes, sir.		
23	Q That is the kind of conversations you had with		
24	Mario Perna?		
25	A No, you twisted it around a little bit.		

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CHARLES W. PARRIS, called as a witness, having been duly sworn, testified as follows:

MR. GARLAND: Your Honor, I think I had better take his testimony up at the side bar first.

(At the side bar.)

MR. GARLAND: I just want to review very briefly what I expect his testimony to be:

It is that he was incarcerated since October of '72. He met Mario -- excuse me, he met Perna -- he was incarcerated from '63 to '71. He met Perna in a short time after he was incarcerated and he was partners with Perna in gambling and narcotics.

That he did not engage in bookmaking, that is, that he was the man who handled the bets. He testified in detail, I think, on direct that he was the man who just bet.

MR. NESLAND: Not on direct. You know better than that. I didn't bring out anything like that.

MR. GARLAND: You brought out the narcotic sales on direct.

MR. NESLAND: Sure I did. Not in Atlanta, the ones he is charged with.

MR. GARLAND: I think you brought them out in Atlanta.

THE COURT: It must be in the record.

- Is that is what called booking?
- Right. A

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- Q Did he give the odds?
 - A He would give the odds. He was the bookmaker. He

1	eoh Parris-direct 3259
2	was the bookmaker. He laid the odds and he made the line-
3	up.
4	Q If a lot of bets were being placed on one game,
5	would he change the odds?
6	A He would change it and say the odds was going on
7	one team, he would raise the odds, the points for it, where
8	it would fall back the other way and then you laid 6 to 5
9	and that way he made
10	Q Were you collecting the money inside, how would
11	the money be handled?
12	A Well, like I would somebody that I knew wanted
13	to bet \$200, he would send the money to my party in Atlanta
14	and in return I would send his part of it to New York.
15	Q When you say his part, whose part?
16	A Mario.
17	Q The money was all outside the penitentiary?
18	A Most of it. Most of it. There was some cash,
19	but most of it was through the mail.
20	Q Would the money be sent inside to the outside
21	or would it be from the outside to the outside?
22	A It would be from the outside to the outside.
23	O Did you have occasion to deal with him in connection
24	with narcotics?

I did.

eoh Parris-direct 3260
Q During what period of time was that?
A From about the end of '67 until some time in '70.
Q Now, during the course of those narcotics dealings,
would you be the one who would actually deliver the narcotics?
A I would you mean get them from him?
Q Yes. Explain to us how it worked.
A Well, Mario, me and Mario would meet and he would
give me the narcotics. Then I would take them and I would
sell them and mostly narcotics is dealt in cash and
I would bring him the money, the majority of times, sometimes
I would take it to Tony Vaz, but most of the time it was to
Mario.
Q Did Mario ever tell you what his relationship
to Tony Vaz was with reference to narcotics?
A Yes, they was in together. I took it that tony
was the head man.
Q Now, tell us how much you would pay for the
narcotics from him and how much you would pay him back?
Now did it work?
A Well, an ounce he would I'd say he got
300 papers out of an ounce.
Q Explain to the jury what a paper is.
A A paper would be a shot, it would be one shot,
one \$10 shot.

1	eoh Parris-direct 3261
2	Q Would that be pure heroin?
3	A Not there. I don't thank it would be pure, but you
4	know that is what they sold it for. They sold it for pure
5	heroin.
6	Q How many shots would you get out of one ounce?
7	A Approximately 300.
8	Q So that is that one ounce would bring in \$3,000?
9	A Right.
10	Q Now, that \$3,000, how much did you get and how
11	much did Mario Perna get?
12	A Well, we took took 1,200 off the top, which
13	would leave 1,800. Then we would split the 1,800. He got
14	nine and I got nine. In other words, he would get 2,100
15	and I would end up with nine.
16	Q During the time you were selling narcotics for him,
17	did he ever discuss with you whether or not he had other
18	people selling it for him?
19	A He discussed he had told me about Tony, but
20	that was all, only Tony.
21	Q How many ounces did you sell for him?
22	A I can just guess, approximately ten, eight, nine or
23	ten.
24	Q Now, did there come a time in your incarceration
25	when you were caught selling?

1	eoh Parris-direct 3262
2	A I was.
3	Q And put in the lock up?
4	A I was.
5	Q Did you receive any punishment as a result of that?
6	A I did. I received they took 850 days away from
7	me which that means two and a half years or three years,
8	whatever it is.
9	Q You would have not had to serve those days had you
10	not been caught doing that?
11	A Right.
12	Q Did you have any agreement with Perna concerning
13	what he was to do if you were caught?
14	A He was supposedly to give me an attorney.
15	Q Did he?
16	
17	A No, sir, I never did go to trial.
18	MR. GARLAND: That is all we have of this witness,
19	your Honor.
20	CROSS EXAMINATION
21	BY MR. SEAR:
22	Q Mr. Parris, this bank robbery conviction, this
23	was in '72, is that right, sir?
24	A Yes, sir.
25	Q You were convicted of robbing two banks in Atlanta,

1	eoh Parris-recross 3267 Jackson-direct
2	MR. GARLAND: That is all.
3	RECROSS EXAMINATION
4	BY MR. SEAR:
5	Q Mr. Parris, do you know of any narcotics addict
6	that you have ever met that would take a hundred percent
7	pure heroin?
8	A No, I don't believe I do.
9	THE COURT: That is not getting us anywhere.
10	MR. SEAR: All right.
11	THE COURT: All right, step down.
12	(Witness excused)
13	
14	ARTIS JACKSON, called as a witness, having
15	been duly sworn, testified as follows:
16	DIRECT EXAMINATION
17	BY MR. GARLAND:
18	Q Mr. Jackson, are you in the Atlanta penitentiary?
19	A No, sir.
20	Q Where do you live, sir?
21	A 617 Court Street, Elizabeth, New Jersey.
22	O Previously did you serve a sentence in the Atlanta
23	penitentiary?
24	A I did.
25	Q When were you released from there, sir?

Q What did he ask you to do about that?

- A He told me that if I listened to him and Mario,
 that they would see to it that I made quite a bit of money
 and that they could use me in the black neighborhood pushing
 the drugs and collecting for them.
- Q Did they say anything to you about the volume of business they were doing?
- A They said they had pretty good connections, that I didn't have to worry about anything. Whatever amount I wanted that they could get for me.
- Q Did they ask you to do any work for them inside the pen in connection with narcotics?

A Yes.

MR. GARLAND: Your Honor, I think I'd better take that up at the side bar.

(At the side bar.)

MR. GARLAND: This is the part where I would ask the witness what they asked him to do and he would testify that Mario Perna asked him to kill Parris, the witness who just left the stand, and that Mario Perna also had a conversation with him concerning killing -- excuse me, I have got it backwards.

That Verzino had a conversation with him asking him to kill Parris and that Verzino had a conversation with him about killing Mario.

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1	eoh Jackson-direct 3271
2	THE COURT: That is excluded and you have an
3	exception.
4	MR. GARLAND: There is one oth r remaining
5	question that doesn't relate to that.
6	(In open court.)
7	BY MR. GARLAND:
8	Q Did you ever have occasion to have without going
9	into the substance of the conversations other conversa-
10	tions about narcotic activities with Perna and Verzino as
11	to who was going on inside the Atlanta penitentiary?
12	A es, I did.
13	Q Now, going from that, did you ever have occasion
14	to have a conversation with Tony Verzino about Joseph Stassi?
15	A I did.
16	Q Did he mention Joseph Stassi?
17	A He did.
18	Q What did he say about Joseph Stassi?
19	A We happened to be walking in the yard one day
20	and happened to pass Mr. Stassi, as it turned out to be,
21	Tony said that he couldn't stand that no good SB. I asked
22	why.
23	He said it was because of Mr. Stassi that word was

MR. GARLAND: That's all, your witness.

around that he was a homosexual.

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1	eoh	Bishop-direct 3272
2		MR. NESLAND: No questions.
3		(Witness excused.)
4		MR. GARLAND: Ermet Bishop.
5		
6	EMMET	N. B I S H O P, called as a witness, having
7	beer	duly sworn, testified as follows:
8	DIRECT EX	KAMINATION
9	BY MR. GA	ARLAND:
10	Q	Mr. Bishop, did you have occasion you are
11	now incar	cerated in the Atlanta penitentiary?
12	A	I am.
13	Q	Were you incarcerated there from 1967?
14	A	Yes, sir.
15	Q	Was there a period of time when you were not there?
16	A	Yes, sir.
17	Q	During what period of time were you not there?
18	A	The last of '71 I was out for 18 months.
19	Q	Did you have an occupation in the penitentiary?
20	A	Yes, sir.
21	Q	What was your occupation?
22	Α	Emergency plumber.
23	Q	Did you have occasion to have any contact with
24	Tony Verz	zino and Mario Pernia in reference to narcotics?
25	A	Yes, I did.

1	eoh	Bisnop-di	rect	3273
2	Q	What did you do?		
3	A	I delivered for them.		
4	Q	When you say you deli	vered, what did	you deliver?
5	A	Shots of dope, papers	•	
6	Q	The dope you would de	liver, was it	what
7	strengt	n was it?		
8	A	That I couldn't say,	sir.	
9	Q	Did you pick up the m	oney for the sal	es from it?
10	A	Some I picked up mone	y from. Some I	got a send out
11	for. P	eople send money through	other people.	
12	Q	Did you have any disc	ussions with Mar	io and Vaz
13	as to w	nat their relationship w	as in reference	to the
14	narcoti	cs?		
15	A	Yes.		
16	Q	What did they say?		
17	A	Well, they said that	they can get all	that they
18	needed	any time that they neede	d it and when I	got out,
19	why the	y wanted to start tra	nsporting dope f	or them.
20	Q	Now, the heroin that	was kept in ther	e, o ou
21	know wh	ere it was kept?		
22	A	Yes, sir.		
23	Q	Where was it kept?		
24	A	I kept it in the bott	om of the fish t	ank, Tony
25	and mys	elf did, we had several	fish tanks and w	e kept it

1	eoh Bishop-direct 3274
2	under the gravel and the money.
3	Q And money?
4	A Yes, sir.
5	Q Did you ever have occasion to discuss with them
6	how much money they were making a week on their narcotic
7	sales in the pen?
8	A Yes, sir.
9	Q How much did they say they were making?
10	A Well, it varied for a period of six months there
11	at one time they were clearing over \$3,500 a week.
12	Q Did there ever come a time when they discussed
13	with you any importation of narcotics outside the penitentiary
14	into the United States?
15	A Yes, sir.
16	Q What was said about that?
17	A They appointed myself and another fellow to fly in
18	narcotics from Canada into New York here and drop it to them.
19	Q Did they ask you to do anything in reference
20	to getting yourself ready to fly them in?
21	A Yes, sir.
22	Q What did they ask you to do?
23	A They asked us to go to helicopter school and they
24	would pay all expenses.
25	Q Who was the other fellow?

A	Feen	and ez.

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- Q Did they ever discuss with you the use of merchant
 - A Yes, sir.
- Q What did they discuss they were going to do with seamen?
- A They said they would furnish us with all papers,

 all identification, put us on a ship and ship us out and we

 to pick up packages of dope, bring it back into the

 Whited States.
- Q Did Tony Verzino ever discuss anything with you that how he was running his narcotic business outside the penitentiary?
- A Yes, sir.
 - Q What did he say?
- A He had a girlfriend here in New York. She was taking care of his business, seeing that he got all that he needed in the penitentiary there; that they were planning on taking over all of the dope. They were going to be number 1, the biggest here and they were going to put other people out of business, just a lot of talk.
- Q In connection with all that discussion, did Verzino or Perna ever mention Joseph Stassi as ever having any role in their activities?

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1	: esp	Bishop-direct	3276
2	. A	None whatsoever.	
3	Q	Did you room in the same dormitory with	Verzino?
4	A	Yes, sir.	
5	Q	How long did you room with him?	
6	A	I would say close to 21 months.	
7	Q	During that time did you get to observe h	nis conduct
8	A	Yes, I did.	
9	Q	Did there ever come a time when you obser	ved him
10	in the b	room closet?	
11	A	Yes, sir.	
12	Q	What was he doing at that time?	
13		THE COURT: What's that got to do with thi	s?
14	Q	A general description.	
15		MR. GARLAND: May I lead him, your Honor	?
16		THE COURT: All right.	
17	Q	Did you observe an unnatural sex act?	
18	A	Yes, sir.	
19		THE COURT: What's that got to do with any	thing?
20		MR. GARLAND: It relates to what Mr. Verz	
21	testified	about it, your Honor.	
22		THE COURT: You know better than that.	
23		MR. GARLAND: That goes to his motive, your	Honor,
24	and bias.		
25		THE COURT: The other thing went to his mot	ive. This

1	eoh Bishop-direct 3277
2	has nothing to do with motive.
3	MR. GARLAND: Excuse me, what did your Honor say?
4	I didn't hear your Honor?
5	(At the side bar.)
6	MR. GARLAND: Did your Honor say that the other
7	had nothing to do with motive?
8	THE COURT: The other had to do with motive.
9	He blamed Stassi for what happened.
10	MR. GARLAND: I couldn't hear you.
11	THE COURT: I said the claim is that Stassi saw
12	these things and took action and that makes him hate him.
13	What's the devil has it got to do with what went on in the
14	broom closet?
15	MR. GARLAND: It shows how deep, you know, it shows,
16	one, that Verzino in fact was a homosexaul which corroborates
17	our proof on bias and motive.
18	He denied that he was a homosexaul. He denied
19	that he had any bias because of the disclosure of his homo-
20	sexuality. I want to show that he lied about his denial of
21	bias. He lied about it by concealing his homosexuality.
22	THE COURT: All right, I will allow it.
23	(In open court.)
24	THE COURT: It turned over he knew better than I
25	did.

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1	eoh Bishop-direct 3278
2	MR. GARLAND: I won't make that claim, your Honor
3	BY MR. GARLAND:
4	Q Did you observe an unnatural sex act in the
5	broom closet?
6	A Yes, sir.
7	Q Was Mr who was engaged in it?
8	A Tony was down on his knees and
9	Q Who was the other person?
10	A A girl who they called Hungry Helen was sitting
11	with his legs all spread out and Tony was eating the man.
12	Q Did you ever mention that to anyone?
13	A I told him I excused myself, I said, I'm sorry,
14	says get the hell out. I said, I was sorry and I slammed
15	the door and I walked on back to my cubicle and about 30
16	or 45 minutes he came back and he said he would like to talk
17	to me. I said, well, go ahead and talk.
18	He said, if you won't let it out what you have
19	seen a little while ago, he says, you won't have to worry
20	about anything as long as you are here. I will take care
21	of you in any way that is possible.
22	Q Thereafter did he pay you anything?
3	A He kept me in commissary all the time. I really

didn't want it, but he forced it on me.

right?

A Yes, sir.

Q I am going to ask you about this organization on the outside to deliver narcotics that Mr. Verzino told you about. Now, you mentioned he asked you to go helicopter school.

A Yes, sir.

Q Where were you supposed to go to helicopter school, any place?

A Some place in Florida. Clearwater, I believe it was Clearwater Springs, they have a helicopter school down there where they furnish the housing and you stay right there on the course at the time they are teaching you to be a helicopter pilot.

Q He was going to buy a helicopter?

A They said they were going to pay for the schooling.

He said they could get a helicopter and it would

be armed with heavy equipment, radar and everything.

Q That was to come from Canada to New York?

A They would furnish the helicopter. We would fly it and pick up dope and bring it back and deliver it to him here in New York.

O He also told you about some -- again, I don't quite remember, what was it about the merchant seamen?

A That was first. He wanted us to go take a ship

Bishop-cross

when we got out and he would furnish us with all our papers and everything else. He would bring us to New York and get us our papers and passports and put us on a ship.

Q Who was the boss in this relationship, Mr. Verzino or Mr. Perna?

A Well, it was -- it seemed at that time that Tony was the one that had the money. He said his girl here had \$7,500 and we would have \$7,500 to work with until he could get out.

- Q So Mr. Verzino was the boss, is that right?
- A Well, at that time we thought he was, but he and Mario were supposed to be partners.
- Q Did he tell you at any time where this heroin was supposed to come from that you were going to bring down in your helicopter or take care of while you were a merchant seaman?
 - A No, he just said we would pick it up in Canada.
- Q In other words, he didn't tell you who the source of the heroin was going to be?
 - A No.
- Q Did he tell you who was going to work for him on the outside?
 - A Well --
- Q Besides yourself.

- Q Prior to coming here, did you sign an affidavit?
- A Did I sign an affidavit?
- Q Yes.

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- A Yes, sir.
- Q Did you prepare it or did the attorneys prepare it?

1	eoh Bishop-cross 3283 redirect
2	A I got back from Louisiana off of my trial
3	just three or four months ago and Joe come and asked me if
4	I would come up here and tell what I knew about Mario and
5	Tony and I told him I would be glad to.
6	Q After that you wrote all the things down on paper
7	A Yes, sir, we was in the virting room.
8	MR. SEAR: No more questions.
9	REDIRECT EXAMINATION
10	BY MR. GARLAND:
11	Q When you came to the visiting room there was
12	an attorney there and a notary public?
13	A And a prison guard.
14	Q The prison official notarized your statement?
15	A Yes, sir.
16	Q And the secretary also wrote them down?
17	A That's right, sir.
18	Q Then after it was written down you read what you
19	said?
20	A Right.
21	Q You signed it under oath?
22	A Right, in front of our own counsel there at the
23	penitentiary in Atlanta.
24	Q Did Joe Stassi suggest to you in any what
25	what you should say?

1	eoh Bishop-redirect 3284
2	A None whatsoever.
3	Q Did any lawyer who talked to you?
4	A No, sir, I couldn't get you to say much.
5	MR. GARLAND: That's all.
6	RECROSS EXAMINATION
7	BY MR. SEAR:
8	Q You never discussed your testimony with Joe?
9	A Not my testimony, no. He just asked me if
10	I would come up here and several times after I gave the
11	statement, I did ask him how he was coming along or how thing
12	were coming along.
13	Q Did you discuss what you were going to testify
14	about with Mr. Stassi?
15	A No, sir.
16	Q Not at all?
17	A No.
18	Q Did the attorneys tell you that you had to sign
19	you couldn't come up and testify unless you signed the
20	affidavit down there before you came up? Did they tell you
21	that?
22	A To the best of my recollection, I just can't
23	remember that, sir.
24	MR. SEARS: No further questions.

BY MR. GARLAND:

Q Were you alvised not to discuss your testimony with other people?

A Yes, sir.

MR. GARLAND: All right.

THE COURT: Anything further?

MR. GARLAND: Nothing further, your Honor.

THE COURT: You may step down.

(Witness excused.)

MR. GARLAND: Your Honor, those are all of the witnesses I have ready right now.

THE COURT: All right, let me just make a short explanation.

Just so you can understand what is going on.

The rule is that on cross examination -- let me start over again -- in dealing with a witness, the government produces a witness and he testifies to certain things. You can contradict him by other witnesses on matters which are material. You can't contradict him on matters which are immaterial, otherwise we would be here not until Thanksgiving, but until the 4th of July.

That is the reason for that rule.

Now, ordinarily nothing would be less material than a person's sexual habits. However, it is the claim here, and I am stating the claim, it is for you, it is the

1 eoh 3286

Mr. Stassi is that he was angry with him for having revealed the fact that he was a homosexaul. The merits of that claim will be argued, I am sure, by both counsel.

Thereafter, on the issue of that claim, whether or not he is a homosexaul might in your judgment be considered material. That is why I excluded it first and then the idea was explained to me what the theory of it was I admitted it. It has nothing to do with anything except on the issue of validity of that claim, which I am sure will be aruged by counsel on both sides.

I will see counsel at the side bar.

(At the side bar.)

THE COURT: What is the prognosis?

MR. GARLAND: My prognosis is one hour Monday merning and I am through.

THE COURT: What is the general prognosis of when the jury will get this case?

MR. KADISH: There is other testimony besides
his case. My case will be no more than four witnesses, which
should take no more than a half an hour, I would think, these
the cross is lengthy and then a decision by my client.

THE COURT: With reasonable possibility some day next week we will conclude with the trial.

AFTERNOON SESSION

(1.15 p.m.)

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(In the robing room.)

MR. GARLAND: Your Honor, I have a witness by the name of Gino Orsini, a very brief witness, relating to testimony concerning conversations with Verzino. He is a Frenchman from Corsica or Marseilles or some place.

THE COURT: He was involved in some other conspiracy?

MR. NESLAND: He was convicted of the Jaguar with Ortega.

MR. GARLAND: He wants a lawyer present during his testimony, and I left messages with his lawyer. We previously had arranged for his lawyer to be here. I would like to ask to put him on out of turn when we have his lawyer here.

THE COURT: Is there any objection?

MR. NESLAND: He wants his lawyer here to take the Fifth, but what he says in his testimony on direct should not be allowed to come in at all.

MR. GARLAND: I don't know what the man is going to do.

THE COURT: It seems to me if he does that, you argue his testimony is not worth much.

You are talking about in West Street.

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Yes.

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,	ms2
2	MR. NESLAND: As long as he takes it before the
3	jury.
4	MR. GARLAND: I have two witnesses.
5	MR. KADISH: I have three witnesses and I would
6	like an opportunity of reviewing some transcript material
7	tonight and then announcing that I will rest in the
8	morning. I think we will pretty much go to the end of
9	the day with this.
10	THE COURT: Are you ready to proceed?
11	MR. NADEN: I'm not calling anybody.
12	THE COURT: Are you ready to proceed?
13	MR. NEWMAN: I explained my problem to the
14	Judge. I will be ready to proceed tomorrow morning.
15	MR. KADISH: We will see what develops during
16	the rest of the day. There may be some last minute
17	documentary evidence that I may have to put in after my
18	witnesses and then I will rest.
19	THE COURT: Have you decided to put your client
20	on?
21	MR. KADISH: No.
22	THE COURT: You have not decided?
23	MR. KADISH: No.
24	MR. NESLAND: When is the decision go ing to

be made?

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Alaimo are --THE COURT: If you want to make a five-minute statement, you may. Reduce it to five minutes.

(Proceedings continued in the courtroom with the jury in the box.)

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Barber - direct

- Q When you say locking together, did you live in the same cell?
- A Not in the same cell; the same area.
- Q How close was your cell to his?
- A Oh, 10, 20 feet.
- Q Now, during the course of that time did you talk with him about his desire to get out of jail?

A Yes, sir. He asked me to reach out and get in touch with his friends and mine, and I attempted to do this for him. That was the extent that I could help him at that time. During the course of the next couple of weeks that I was there I became a little more familiar with his present status as it was then, and he related to me about his situation in terms of his feelings and his up-tight situation, that he was a desperate man.

- Q Did he ever talk to you about any investigation where he had been questioned and the subject matter of the investigation?
 - A He did.
 - Q What did he tell you?
- A At this time he was very, very indignant and insulted that the agents were trying to turn him around and trying to get him to collaborate any and all cases that he was involved in, and he went on numerous trips or wherever

they would go to talk, and when he come back from the trips he explained that this happened, and they said the and they wanted him to do that, and he mentioned a few names. Q What names did he mention? A Well, at the time I didn't know the parties concerned. He mentioned a Frenchman and The Old Man.	- 11	
trips he explained that this happened, and they said the and they wanted him to do that, and he mentioned a few names. Q What names did he mention? A Well, at the time I didn't know the parties concerned. He mentioned a Frenchman and The Old Man.		ms6 Barber - direct 339
and they wanted him to do that, and he mentioned a few names. Q What names did he mention? A Well, at the time I didn't know the parties concerned. He mentioned a Frenchman and The Old Man.		they would go to talk, and when he come back from the
names. Q What names did he mention? A Well, at the time I didn't know the parties concerned. He mentioned a Frenchman and The Old Man.		trips he explained that this happened, and they said this,
What names did he mention? A Well, at the time I didn't know the parties concerned. He mentioned a Frenchman and The Old Man.		and they wanted him to do that, and he mentioned a few
A Well, at the time I didn't know the parties concerned. He mentioned a Frenchman and The Old Man.		names.
concerned. He mentioned a Frenchman and The Old Man.	;	Q What names did he mention?
	,	A Well, at the time I didn't know the parties
The Old Man I later came to know hi as Joe Stassi.	3	concerned. He mentioned a Frenchman and The Old Man.
g The old Man I Idea	9	The Old Man I later came to know hi as Joe Stassi.

- Is that from conversations with Perna?
- Right.

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- Q Now, did you in the discussions about the Frenchman learn what Frenchman he was talking about?
- A I believe the name was Nebbia.
- Q What did he say about The Old Man and Nebbia?
- A Well, I forget all, but I believe he just returned from sentencing in Miami and he had a New York State case that he said that he could not beat, he was buried there, and then I believe he also had back up time with the Federal authorities.
- O Did he mention how many years he had in the State case?
- A I think he was facing life there, second offender narcotics, and I think the law was just passed where he would have mandatory life sentence. It is hard

to put in one word what he said, in the sense that he is putting it in the best light and you have to evaluate it

4 from there, But the gist of it --

Q Just tell us what he said to you?

really hot as far as trying to jam Joe Stassi, and then they wanted his cooperation in doing it. And if he did cocoperate, that they would look favorably not only on his federal disposition, but also on the State case that was pending at that time. The agents wanted him to verify or to concoct a story that the goods that he was caught with were a conspiracy between him and Joe Stassi and the Frenchman, or The Old Man, as he called him then.

Q Did he say whether Joe Stassi was involved?

the Frenchman for that matter. He acted ignorant at that time. He just didn't know anything about it.

The only person he knew anything about was the person he was apprehended with, which was his partner at that time in the jail, a fellow named Harry something, and as far as what he related to me he didn't know anything about anybody else other than the one fellow Harry that he was apprehended with, and he merely was relating to me all the different names of people that he could hang something on

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Yes.

Did I know him?

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Did you know Mario at all down in Atlanta?

.	702
1	ms10 Barber - cross 3403
2	A Yes.
3	Q Did you associate with him?
4	A No.
5	Q You just knew him to say hello? You never
6	talked with him?
7	A Well, he was a jailhouse hustler that hustled
8	different things.
9	Q Just answer the question. I don't want to
10	know what you thought of Mr. Perna down there.
11	MR. GARLAND: I think the question calls for
12	an answer.
13	THE COURT: The question is, did you assosciate
14	with him or not?
15	A No.
16	Q Correct me if I am wrong. When you were
17	talking to Mario and he weas supposedly telling you about
18	the agents, what the agents wanted him to do, and the
19	names that he mentioned, a Frenchman by the name of Nebbia
20	and The Old man whose name was Joe Stassi
21	A No, I remember he mentioned one other name,
22	Tony Vose.
23	Q Could it be Tony Vaz?

Did you know Mr. Vaz down in Atlanta?

Tony Vaz.

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Mario Perna and Tony Vaz.

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A Terna. I call him Terner.

you do not remember it?

A Well, he mentioned a lot of things. Some
things stick out, and this is in relation to Tony Vaz,
that there was some apartment either in Miami or Texas that
Mario and Vaz had a stash, and this was a stash, and when
they were apprehended this was apprehended with them.
All that, over a period of weeks, come out piecemeal. But
it didn't mean anything to me because I never had any
dealings with narcetics in jail or out, or people with
marcotics in jail or out.
Q Did you forget about that when Mr. Garland
just questioned you?
A Say it again, please?
MR. GARLAND: I don't understand the question.
Q Did you forget about what you just told the
jury about the people that Mario told you about when he
was questioning you?
A I am trying to stick with pertinent people
involved.
Q Let me just question you. Don't just stick
with people that you think are pertinent. You mentioned
The Old Man, Joseph Stassi?

Q Mr. Mario supposed told you about him.

mentioned a Frenchman by the name of Nebbia?

Right.

1	ms Barber - cross
2	A Yes.
3	Q Now we learn that Mario supposedly mentioned
4	a man by the name of Vaz to you and narcotics?
5	A Yes.
6	Q Now, think, to the best of your recollection
7	were there any other names that Mario mentioned to you
8	with relationship to narcotics while you were in West
9	Street?
10	A Just his partner, Harry.
11	Q Harry?
12	A Yes.
13	Q He never mentioned a man by the name of Joseph
14	Condello?
15	A No.
16	Q Did he tell you how he got caught?
17	A Yes, somebody set him up, to make it short.
18	Q But he didn't mention the name of the person
19	who set him up?
20	A No. If he did I do not remember the name.
21	Q And you do no t remember any other names that
22	he dealt with in narcotics that he talked about?
23	A No. I just can't remember. I don't think
24	he mentioned anybody else that I would remember or could

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remember.

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- Q But you remember The Old Man and you rember the Frenchman?
- A Yes, because it was pressing on my mind.

 Every day it was the same repetition, "I need help; I can't stand the jail." It was like a record machine, the same thing over and over. So remembering them and knowing them prior and knowing of them, I do have a better recollection of them.
- Q Do you have any idea now, from your conversation with Mario in West Street, as to how many people he actually had dealt with in the narcotics business?
- A You want an estimate?
- No, I want to know if you have any idea from your conversations with Mario as to the number of people as of that summer of 1974 that he had dealt with, actually dealt with in the narcotics business?
- A Well, I can only assume it is the people he mentioned to me, the three or four people that he mentioned.
 - Q He didn't tell you about any more?
- A No. Well, the only other people he would mention was his wife or his girl friend.
 - Q He did mention his wife and his girl friend?

 A Yes.

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Anybody else?

Q He told you -- correct me if I am wrong -that the agents wanted him to say that the heroin, the goods that he got caught with, had come from The Old Man, Joseph Stassi?

A Yes, he did. In fact, he mentioned this fellow Nebbia, the Frenchmen, and he could have possibly have mentioned somebody else. I don't remember. All I remember is that he felt that he could get a deal from the agents to get out from underneath both jurisdictions, the State and the Federal, and when you listen to something like that, you shrug your shoulders, knowing prior to that idea that he already had an idea of getting out as far as escaping, or to cococt some type of a deal where he could get out on bail and set somebody up and then take off. But he had an idea where he could get out under the situation that he was in, and as it worked out, he got out both ways, he escaped, then he turned around.

- Q Do you know whether Mr. Perna told anybody connected with the Federal Government that Mr. Stassi was ever associated with the goods that he was caught with?
 - I have been out of contact with him.
 - You have no idea what Mario told?

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A Later after he spoke to me I don't know what he said. I have not seen him.

So you don't know?

A No.

Q And you are telling this jury that Perna told you that the agents wanted im to say that?

A Absolutely. That is not unusual.

Q I take it that Mr. Perna did not talk at all about people that were involved in the goods he had been arrested with?

- A I only know of the one, Harry, or Vaz, Tony Vaz.
- Q But he didn't talk about anybody else to you?
- A No, he didn't.

Q Did he tell you that he was going to tell the Government that Mr. Stassi was involved in these goods that he got caught with?

A No, he didn't. On the contrary, he was very insulted they even approached him about it. He felt he was such a good guy that he was not going to be a rat to get out from underneath the situation that he was in.

Q Would it be fair to say that the subject matter of what had gone on down in Atlanta between Mr. Perna, Joseph Stassi, Mr. Sorenson, Mr. Condello, Mr. Vaz, never came up during the time that you were in West Street with

came up during the time that you were in West Street with

1	ms	Barber - cross	3411
2	Perna?		
3	Λ	Absolutely not.	
4	Q	Never came up?	
5	A	Never came up.	
6		MR. SEAR: Nothing further.	
7	REDIRECT EX	MAMINATION	
8	BY MR. GARI	AND:	
9	Q	He told you Mr. Stassi was not involved?	
10	À	Yes.	
11		THE COURT: How could he have told you that	t
12	when the qu	destion never came up?	
13		THE WITNESS: I believe you asked me the	
14	question or	the original examination.	
15		THE COURT: There seems to be an inconsis	tency
16		THE WITNESS: I will explain it.	
17		The lawyer asked me originally if Mario Pe	erna
18	had stated	that.	
19		THE COURT: Stated what?	
20		- WITNESS: That he was never involved w	vith
21	him. In	his words you repeat the question in you	ır
22	own words.		
23		You did ask me originally	
24	Q	I asked you did he have a discussion about	Ė

the Frenchman and you said yes?

A Yes.

Q At the time you had that discussion did he say whether or not Joseph Stassi was involved with the Frenchman?

MR. SEAR: Objection.

In regards to what, your Honor?

Perna's coming back from visiting the agents that I said they must be really hot on The Old Man and this Frenchman, because they want him to verify the fact that the goods that he was caught with came from them, and I said that is wha he told me, and he said he never did no business with them, he had no dealings with them.

Now you asked me the last question I believe was similar to that, if I knew of any association or dealings with, or if he said he had any association or dealings with The Old Man, and again I say he said no.

That is the best as I can remember the three conversations that we had.

MR. GARLAND: Nothing further.

(Witness excused.)

2	EDWARD DANIEL GRILLO, called as a
3	witness by the defendant Joseph Stassi, being first
4	duly sworn, testified as follows:
5	DIRECT EXAMINATION
6	BY MR. GARLAND:
7	Q Where do you live, sir?
8	A Sheepshead Bay, Brooklyn.
9	Q Are you presently on parole?
10	A No.
11	Q Did you formerly serve a sentence in the
12	Atlanta Penitentiary?
13	A Yes.
14	Q During that time did you know a man by the name
15	of Joey Condello?
16	A Yes, I did.
17	Q Did you know Mario Perna?
18	A Yes, I did.
19	Q Did you know Tony Verzino, known as Tony Vaz?
20	A Yes, I did.
21	Q Did you associate with Mr. Perna?
22	Λ Yes, I did.
23	O How often?
24	A I would say often.
25	Q Did you associate with Mr. Condello?

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2	A Yes, I did.
3	Q Where did you live?
4	A Well, first I started off in the cell block and
5	then in time I was qualified to go up in the honor dormitor
6	Q Did you live with Mr. Perna and Mr. Verzino
7	up there?
8	A Yes, among 200 other inmates.
9	Q And Mr. Condello was there?
10	A Yes, he was.
11	Q Did you know Joseph Stassi?
12	A Yes. Personally, no.
13	Q Did you associate with him regularly?
14	A No.
15	Q Whar do you mean by personally?
16	A I didnt know him personally. I knew him like
17	2000 other inmates that were in Atlanta.
18	THE COURT: You knew who he was?
19	THE WITNESS: Yes, I didn't know him to speak
20	with him, just occasionally I did say hello to him.
21	O Were you, sir, ever present at the bleachers
22	in Atlanta Penitentiary where Mr. Mr. Stassi was, where
23	you were, where Mr. Kapatos was and where Mr. Condello
24	was at a time when there was a discussion concerned

killing Tony Verzino?

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1	ms		Grillo - cross	3416
2	C	2	How long have you been unemployed?	
3	1	1	Since January of this year.	
4		2	About ten months?	
5	1	A	About approximately.	
6	(2	You are now on unemployment?	
7	1	A	Yes.	
8	(2	You are receiving unemployment benefits?	
9	1	A	Yes.	
10	(2	Where were you working before that?	
11		A	On Staten Island, 1305 Richmond Terrace.	
12		2	What were you doing?	
13		A	I was an oiler at first and then I was main	nten-
14	ance m	an in	the compressor house for Richmond Construc	tors.
15		0	When were you released from Atlanta?	
16		A	August, 1972.	
17		Q	Did you go to work then?	
18		A	Yes. Not right away. About two weeks	after
19	I was	relea	sed.	
20		Q	Where did you go to work?	
21		Α	I worked for a car service.	
22		Q	Did Tommy Kapatos ever help you get a job	after
23	you we	re re	leased?	
24			Yes.	
25		0	You are good friends with Tommy Kapatos?	

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You never were? 0

No.

No. A

> You never were in Atlanta? 0

1	ms	GIIIO - CIOSS
2	A	I don't know what your interpretation of a
3	friend is.	In other words, you asked me if he is my
4	friend. He	e is not my friend.
5	Q	He is not your friend since he has been co-
6	operating?	
7	A	He was never my friend.
8	Q	Ne ver your friend?
9	A	No, never.
10	Q	How often were you together in Atlanta?
11	A	Frequently.
12	0	But he was not your friend?
13	A	No.
14	Q	How often were you together after you were
15	released?	
16	A	I would say two or three times.
17	Q	Have you seen him?
18	A	He had dinner at my home.
19	Q	He is not your friend?
20	A	No. That is my interpretation.
21	Q	I understand that.
22		When is the next time you saw him after he ate
23	dinner at y	our home?
24	A	About six months later. He came over with
25	his wife to	see me.

I was with him frequently.

1	ms Grillo - cross 3420
2	Q Well, is that all You ever had to do with
3	Johnny Condello, playing handball on a handball court?
4	A Yes.
5	Q You never had conversations other than, "Get
6	the ball?"
7	A Oh, yes, I had other conversations other than
8	about the ball.
9	Q Did you walk around the yard with him?
10	A Yes.
li	Q You had conversation then?
12	A Yes, people walking together they talk, don't
13	they?
4	Q You were walking around the yard with him?
.5	A Yes, that is the only place to walk is in the
.6	yard. It was a place, you know, that is the only place
7	to walk, in the yard
.8	Q But you walked with Johnny Condello?
9	A Yes, along with a hundred and fifty other
o	inmates.
1	Q You and Johnny Condello and a hundred and fifty
2	other inmates?
3	A No, I waslked with the hundred and fifty people
4	in Atlanta while I was there. Joey Condello wasn't the

only person I ever walked around the yard with. There

1	ms - Grillo - cross 342
2	that I was in. Now, that does not make him my friend.
3	Q Did you see Perna after you were released?
4	A Yes, I did.
5	Q How often did you see Perna?
6	A I seen Mario Perna twice.
7	Q When were those occasions?
8	A Once he had dinner at my house and once I went
9	out with him in Brooklyn somewhere.
10	(Continued on next page.)
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	1	mch 1	Grillo-cross
12	2	Q	Over at Delmonico's?
	3	A	No, no.
	4	Q	Where did you go in Brooklyn?
	5	A	Some bar.
	6	Q	Where was it?
	7	A	I can't remember offhand.
	8	Q	Who was with you?
	9	A	Who was with me? Mario Perna and myself.
1	0	Q	Did you meet anybody?
1	1	A	No.
1	2	Q	Do you know Mr. Sorenson?
1	3	Α	Do I know Mr. Sorenson? Yes, I do.
1	4	Q	Do you know him from Atlanta?
1	.5	A	Yes.
1	.6	Q	Was he a friend of yours down there?
1	7	A	A friend? No.
1	18	Q	Did you talk to him?
1	.9	A	Played handball with him frequently.
2	xo	Q	Did you talk in the yard with Mr. Sorenson?
2	21	Α	No.
2	22	Q	Did Mr. Perna?
2	3	A	Perna? Not to my knowledge.
2	4	Q	Did you and Mr. Perna and Mr. Sorenson play
2	25	together?	

1	mch 2 Grillo-cross
2	A On occasion.
3	Q Did you see Mr. Condello and Mr. Sorenson together?
4	A I seen them on the handball court. V have played
5	handball together.
6	Q Other than that?
7	A No. I seen them walking, it is possible, but to
8	give a yes or no answer, I'm not sure.
9	Can I answer that way?
10	THE COURT: Yes.
11	A I'm not sure.
12	Q Did you see Mr. Sorenson and Mr. Verzino?
13	A Yes, on occasion.
14	Q You testified that Kapatos helped you to get into
15	the union?
16	A Yes.
17	Q How often would you be with Mr. Kapatos in Atlanta?
18	A How often would I be with Mr. Kapatos? We played
19	handball. The same relationship that I had with Mr. Condello
20	I had with Mr. Kapatos. In other words, we played handball
21	because, in other words, I played handball, I would say,
22	five out of seven days a week I played handball and that is
23	how I did all my time in Atlanta, by playing handball.
24	Q And the only time you had any association with
25	Kapatos was on the handball court?

1	mch 3 Grillo-cross
2	A Yes.
3	Q You never had any association with him in the dorm
4	or in the yard?
5	A We lived in the same dormitory.
6	Q I take it you had coffee together; you had conver-
7	sations together in the dormitory?
8	A What do you mean, conversations?
9	Q You talked with him?
10	A Yes, I talked with a whole population of people.
11	In other words, are you asking me am I having did I have
12	an intimate relationship with Mr. Kapato while I was in?
13	Q Were you close friends?
14	A No.
15	Q How often would you have conversations with him
16	in the dormitory?
17	A How often would I have conversations? Seven days
18	a week. We lived in the room, adjoining rooms next to one
19	another and I would have frequent the opportunity to see
20	Mr. Kapatos every day of the week. We were in the same peni-
21	tentiary together.
22	Q And since that time you have seen him since both
23	of you have been released?
24	A Yes. We developed a very wonderful relationship.
25	I happened to be the best man at Mr. Kapatos' wedding.

1	mch 4 Grillo-cross
2	Q Ms. Kapatos' wedding?
3	A Yes, I was.
4	Q And that developed in Atlanta?
5	A No, not in Atlanta. It developed when I came home.
6	Q He didn't meet you until September, 1974?
7	A Yes, right.
8	Q It developed last year?
9	A It developed over the last three years. Our
10	friendship developed when I was released from the federal
11	institution in Atlanta. I asked Mr. Kapatos if he could
12	help me to get a job going to work in construction and he
13	gave me the address of the union to see if I could go down
14	there and get a job, and I did, and my relationship de-
15	veloped not with Mr. Kapatos but Mr. Kapatos' wife that I
16	maintained a relationship all during the time that Mr. Kapatos
17	was away. So, the relationship developed as of 1972, which
18	you would call a very dear friend relationship through his
19	wife and them through Mr. Kapatos.
20	Ω Now, prior to that time how often did you go out
21	in the yard with Mr. Kapatos when you were in Atlanta?
22	A Not often other than to play handball.
23	C Just to play handball?
24	A Yes.
25	O Did you know Mr. Kapatos as a good friend of Joe

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- A No, I didn't.
- Q Did you ever see them together?
- A Occasionally.
 - Q How often?

A I don't know. I can't be precise. You are talking about -- it is over three years. You are asking me to itemize how many times I seen them walking, Joe Stassi, Tommy

Caputo. At that particular time my recreation and my time was all engrossed on the handball court in Atlanta and I didn't take time out to watch who Mr. Kapatos was walking with or who Mr. Stassi was walking with. In other words, it was the farthest thing from my mind to worry who they were walking with. I was doing my time, not their time.

- Q Did you ever see them walk together?
- A Yes, I have.
 - O How often would you say?
 - A I couldn't give you an honest answer.
- O Infrequently?
 - A I couldn't -- in other words, to my knowledge infrequently.
 - O Infrequently.
- A To my knowledge. To someone else's knowledge,

 I don't know.

	1	mch 6 Grillo-cross			
	2	Q Do you know Tony Stassi?			
	3	A No, I don't.			
	4	Q Just Mr. Sorenson and Joe Stassi; is that correct?			
	5	A Yes.			
	6	MR. NESLAND: No further questions.			
	7	MR. GARLAND: No further questions.			
	8	THE COURT: You are excused.			
	9	(Witness excused.)			
	10	MR. GARLAND: I will move into evidence Defendant			
	11	Exhibit H.			
	12	MR. NESLAND: No objection.			
xx	13	(Defendant Exhibit H received in evidence.)			
	14	MR. GARLAND: Subject to the reservation of the			
	15	one witness, your Honor, we rest at this time.			
	16	MR. KADISH: May I proceed, your Honor?			
	17	THE COURT: I will have to take a short break.			
	18	There is another matter I have to attend to.			
	19	(Recess.)			
	20	MR. KADISH: The defendant calls Mr. Bonielo.			
	21				
	22	CARLO BONIELO, called as a witness, having			
	23	been duly sworn, testified as follows:			
	24	DIRECT EXAMINATION			
	25	BY MR. KADISH:			

1	ms7 ***
2	JEAN ORSINI, called as a witness by the
3	defendant Joseph Stassi, being first duly sworn
4	through the official French interpreter, testified
5	as follows:
6	(Miss Margarita Mensa acted as official
7	French interpreter.)
8	(Also present at the witness stand is
9	Jeffrey Ullman, Esq., attorney for the witness.)
10	DIRECT EXAMINATION
11	BY MR. GARLAND:
12	Q Are you presently confined in the Atlanta
13	Penitentiary?
14	A That is correct?
15	Q What is your nationality?
16	A I am French.
17	Q Who is the gentleman standing behind the inter-
18	preter?
19	A He is the lawyer who is representing me.
20	Mr. Fisher is my lawyer.
21	O Do you know Tony Verzino?
22	A Yes, that is correct.
23	Q How do you know him?
21	A I met Tony Verzini in Atlanta in 1972.
25	Q Are you able to speak some English and understand

some English?

A Now, yes.

Q Did you have occasion to have conversations with Tony Verzino concerning narcotics?

A Yes.

Q What did Mr. Verzino say to you and what did he ask you?

A At the time that I first met Verzino I did not speak English well, I did not speak English. There was another Frenchman there who interpreted for me, because Mr. Verzino, as I understood, he spoke a little Italian, but not well. I met him for the first time around the month of June, 1972. That was the first time that he asked to talk to me, in June of 1972.

O What did he talk about?

A He told me that he had had certain relations with France, in France, but that for two or three years he had not kept in contact with his relations and he wanted to work with me.

Q What did he want you to work with him about?

A He wanted me to give him certain addresses in France. He wanted me to send him to places where he could purchase heroin, that he was going to send his wife and his friend, Mario Perna. I answered him that I

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- Q Did he state why he was going to send his wife?
- A First of all, he told me that he was going to send his wife in order to reestablish the relations that he had had and it was though those people didn't want to do business with him any more.
- Q After that conversation did he have any other conversations with you?

A Tony Verzino up to the date that he lost

Atlanta he kept asking me about the addresses, whether or

not I could furnish him with addresses to send his wife,

and he also mentioned to me frequently his friend Perna,

and I always answered him that I could do that.

MR. GARLAND: That is all.

CROSS EXAMINATION

BY MR. SEAR:

Q Mr. Orisini, is it true that the reason you are in Atlanta is you were convicted in connection with 94 kilograms of heroin?

MR. ULLMAN: May I ask the privilege about

22 that?

THE COURT: No. The question is, was he convicted. That is a matter of record.

THE WITNESS: Your Monor, may I take the Fifth

don't know.

MR. SLAR: Nothing further.

MR. GARLAND: Nothing further.

(Witness excused.)

MR. GARLAND: I have one exhibit here which there won't be any objection to the offer of. I would like to have it marked and admitted. We will have to have a copy of it made at some appropriate time. It is a driver's license.

THE COURT: Received.

(Defendants' Exhibit AD was received in evidence.)

THE COURT: Nothing further today, gentlemen?

You remember I told you from time to time that questions not answered or objections sustained don't mean anything. The same applies to the Government as applies to the defense in this respect. Remember there was a question sustained as to whether Mr. Nesland had shown one of the witnesses a photograph. The objection was sustained. You are not supposed to infer whether he was shown that or not shown that. Just forget about it. That means it is irrelevant. Don't think about it. Don't assume he saw something that he identified or anything of that nature. After you heard the explanation you might think

Atlanta and that these things followed as a result of that conspiracy. Therefore, the government must be held to that and that is the problem you have. One, was there conspiracy? Two, as to each defendant, was he a member of the conspiracy; and, three, if so, did the following acts occur in furtherance of that conspiracy within the reasonable contemplation of the man whom you are considering.

Just remember you have four lawsuits here. Each lawsuit is independent and they are only here for the court's convenience and the government's convenience together, but each lawsuit is separate.

This isn't supposed to be a charge. I'm just giving you this so that I can help you focus your thinking while you hear the summations.

Does anybody want to approach the side bar?

The jury will hand the papers back.

All right, Mr. Nesland.

MR. NESLAND: Judge Knapp, defense counsel, madam forelady, ladies and gentlemen of the jury:

First I would like to thank you on behalf of the government for the attention that you have paid to the witnesses in this case, the attention you have paid during the last six weeks to all the evidence that you heard from

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the witness stand and also paying attention as the exhibits were passed among you. It is a vital aspect of your duties, as Mr. Sear told you in the opening, because it is the evidence, ladies and gentlemen, the evidence that has been in this case introduced by the government and introduced by the defense. All the testimony and all the exhibits which you must deliberate upon, which you must consider in deciding upon your verdict, and this is my opening part of my summation and it is the evidence that I will direct myself to as I discuss with you what the government contends the evidence showed happened in this case and why the government!'s witnesses are telling you the truth about what happened in this case. After I have concluded the opening part you will hear from defense counsel and they will tell you what they contend the evidence shows and why they contend that the government's witnesses are lying about what happened in this case.

But in the end, in the final analysis, it is you and you alone who must decide what the evidence shows happened in this case. But I say, what defense counsel say are only arguments. You make the final decision. We have arrived at that stage where you must make that decision.

All the evidence is in. Judge Knapp told you now that you will hear no more testimony, you will see no more exhibits.

We have reached that stage of the trial where the case is
to be turned over to you and you are at that point where
you perform your final duty to deliberate in the jury room
and reach a verdict in this case, and that is probably your
most important duty. It is important to the government and
it is important to the defendants, and that is your decision.

You must decide if these defendants, Joe Stassi,
Tony Stassi, Mr. Sorenson and Mr. Alaimo conspired to smuggle
heroin from France to Canada into the United States and
here into New York City.

Now, the indictment in this case, as Judge Knapp
has just told you, is that they conspired to do this, but
it also charges in the other counts, 2, 3, 4 and 5, that
on two occasions, on at least two occasions they actually
succeeded in importing 40 kilograms of heroin, the 40 kilograms of heroin that Mastantuono delivered to them in
September of 1970 in the Citroen, and the station wagon
that Mastantuono delivered to these defendants in June of
1971. I won't go through the indictment with you. You are
entitled to have that indictment in the jury room to see it
and to see exactly what the charges are, and Mr. Sear explained it in his opening many weeks ago and I do not intend
to go over that, but I would remind you now that the indictment
is not evidence. The only evidence in this case is what you

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heard from the stand, what you heard read to you as stipulations and what you saw as exhibits, and I remind you, of course, that you are entitled to have those exhibits brought into the jury room for your deliberations. You are entitled at any time during the course of your deliberations to hear testimony reread to you, and that is important. If you have questions about exhibits, if you have questions about testimony, ask for them. You are entitled to them.

Now, before I proceed to discuss with you what the government contends the evidence shows happened in this case and what the government contends shows happened beyond any reasonable doubt, I think it is important to set the record straight right now as to who the government witnesses are. The government witnesses, the main government witnesses you heard testify in this case were Mario Perna, called first, Joey Condello, called second, Anthony Verzino, called third, and Michel Mastantuono, called fourth.

Obviously there is much to be said about every one of thos people and you will hear a lot from me and, of course, you will hear a lot of it from defense counsel.

I am not going to stand here now any more than Mr. Sear did in his opening and tell you that they deserve one ounce of respect or one ounce of admiration or one ounce of sympathy. They are parcotics dealers and the narcotics business

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is a rotten, vicious, dirty business and they made their livelihood out of it. Every one of them made it their business to deal in large quantities and small quantities of narcotics, but remember the narcotics business, like any other business, requires a lot of people to make it succeed and you ask yourselves how the government could penetrate this rotten business, the narcotics business, and prosecute those who make hundreds of thousands of dollars out of narcotics if they dian't use people like Joey Condello, Mario Perna, Anthony Verzino and Michel Mastantuono those right in the business, those caught and facing life or facing a long time in prison, those caught time and time again, as Perna and Verzino were. And all those years they were caught, convicted, they never broke the code of silence, not until now, when they face life. They have been in jail half their lives and they didn't want to spend the rest of their lives in jail and you can bank on that. No dispute of what they were facing when they were arrested.

Now, the government didn't choose Joey Condello, didn't choose Mario Perna, they didn't choose Anthony Verzino and they didn't choose Michel Mastantuono to testify against these defendants in this case. The defendants chose them.

MR. NEWMAN: Objection, if your Honor please.

Three of those witnesses never testified about Alaimo, Judge.

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THE COURT: That is correct.

MR. NESLAND: They chose them, ladies and gentlemen, because they knew they could be trusted. They knew that Perna and Verzino and Condello had been busted time and again and never turned state's evidence, never ratted out on those that they were dealing with up until now, people who would rather go to jail for the better part of their lives than tell on their friends and their associates and their business partners.

Well, this time they have told you and they have exposed who they were dealing with and have exposed who their partners were in this smuggling scheme: Joseph Stassi, Tony Stassi, Bubby Sorenson and you learned from Michel Mastantuono, Charles Alaimo.

And they have given you the inside story of how this smuggling scheme operated because they were part and parcel of it. They were what the law calls accomplices, insiders.

Now, of course, you remember that Mr. Perna and Mr. Verzino and Mr. Condello did not know Charles Alaimo.

The judge will instruct you that not every member of a conspiracy knows every other member, just like in any business organization not everybody in one part of the business knows everybody in the other part of the business. They couldn't

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know everybody. They spent most of their time in Atlanta with Joe Stassi.

Now, in discussing what the government contends the evidence share I will not pretend that I can give you a complete, clear picture of what happened in the smuggling operations. That is so because none of the government witnesses were central to the operation. None of them played a central role in the negotiating in France and the bringing of the heroin into New York and distributing it here. Perna and Verzino, you recall, made the connection in Atlanta, but they were always in Atlanta, at least until 1972, the middle of 1972, when Perna was released.

During 1970 and 1971 Perna, Verzino and Condello, the government's witnesses, were in Atlanta. They were in Atlanta when these shipments were coming in. They only learned what was happening through Susie Verzino and through Joe Stassi, who was meeting with Tony Stassi in the visiting room.

involved. He learned about this because of his friendship with these people, his association with these people, and in being a party or privy to conversations they were having while they were in Atlanta. And Mastantuono, he was simply a courier, certainly a high level courier. He wasn't

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carrying an ounce or two ounces, he was carrying 40 and 70 kilos of heroin packed into cars, but he never packed those cars. All he did was bring them from Canada into New York and deliver them. The other Frenchman, the uncle, Andreani, Felix Rosso, Jacque Bec, those were the people that were negotiating to have those deliveries brought into New York and negotiating with the recipients of those loads. But you can by looking at the French end through Mastantuono and the American end through Perna and Verzino and Condello get a pretty clear picture of what was going on. Not complete, but a pretty good picture.

I suspect that the oddest fact in the whole

case is that the connection itself is made in Atlanta, the

Atlanta penitentiary, and Verzino testified that he made

that connection with Otvos in March, 1970. If you recall

Perna's testimony, his testimony was that it was before March

of 1970 that he was talking with Otvos and learning about

the problems Otvos was having with Ralph Santana, and Verzino

testified that when he talked to Otvos, Otvos was looking

for a new customer to replace Ralph Santana and hit on

Verzino.

Before I go on, I can't possibly go through every piece of testimony that you have had in six weeks, but I do want to summarize the facts and I do want to take some

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time to go through the facts just briefly to remind you of what the government's witnesses have told you was happening during 1970, 1971, 1972 and 1973.

Verzino told you that after Otvos had made the proposition to him he and Perna were interested but they didn't have anybody on the outside, didn't have anybody on the outside capable of putting together the kind of organization that was necessary to import and receive and distribute the large quantities of heroin that Otvos was offering.

At the very beginning he told them that "I have 55 kilos laying over in France. "D you have anybody that can handle it?"

Verzino turned to his friend, the closest friend he had in Atlanta, Joseph Stassi. That that happened is beyond question. There are any number of reasons why Tony Verzino would turn to Joe Stassi in March of 1970 when he received this offer from Otvos. The first is the respect and the trust he had for Joe Stassi, and you will recall Government Exhibit 21, Verzino's letter to his girlfriend Susie written September 15, 1969, only a few months before Otvos hit on him to be a customer for narcotics from France.

It reads, "My dearest Susie, I received your latest letter about Pepino. We all remember Pepino" -- the Stassi mouse -- "and although I was happy to hear from you

I was saddened to hear that the little fellow died. It seems almost comical to become attached to a mouse and yet I realize how it can happen. Tell Fran" -- no question who Fran is, Fran Stassi, Mr. Stassi's wife-- "I said hello and send my love and I'm anxiously awaiting news of how her husband is doing and feeling. I miss him very much, but I'd be overjoyed to hear he is well and doing well. Give her my sincerest and best wishes for him. In a way he is like an older brother to me and commands all my respect because he is a man in the truest sense of the word. I've met none better."

Those are the feelings of respect and admiration that Tony Verzino had for Joe Stassi. Your common sense would tell you who Tony Verzino would turn to when he got an offer from Otvos.

What kind of man in March of 1970 or September of 1969 would Tony Verzino respect? Tony Verzino, the lifelong criminal, made his life with a gun, made his life dealing in narcotics. Who does he respect? Joe Stassi, a man more powerful than himself, a man who knows the ballgame, who knows how to wheel and deal better than Tony Verzino.

You have to remember that Verzino and Perna were street peddlers. They were drug pushers on the street. They spent half their lives in jail getting caught selling drugs

Perna had been in jail already 12 years. What kind of organization do you think Perna had? Verzino had been in jail since 1965 for selling narcotics, as little as one ounce.

Not one of those was in for smuggling narcotics. They had no organization. They had no importation organization to handle the kind of proposition Otvos was giving them. They had to turn to somebody who could put together that kind of crganization, who knew how to smuggle herein, and they turned to Joe Stassi because he was the smuggler. Ladies and gentlemen, he had been convicted in 1966 of smuggling 100 pounds of heroin into the United States.

Government's Exhibit 104, the conviction of

Joseph Stassi, the one Joseph Stassi tells you was framed
on him, even though it still exists -- it was appealed
and it was affirmed. He attacked it and it was affirmed
again, but he didn't do it. He was framed in that one, just
like he is going to argue he was framed in this one too.

He was a smuggler, ladies and gentlemen. He was the man
capable of being able to control and put together an importation organization and a distribution organization right
from the Atlanta penitentiary. He had a brother on the
cutside, Tony Stassi. Tony Stassi could handle everything
for Joe Stassi. Joe Stassi would have complete control.

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As long as his brother was on the top outside and Joe Stassi was on the top inside, they could control everything.

And that is exactly what the evidence showed happened. When Verzino talked to Joe Stassi, Joe said "Let me go call -- let me call for my brother, have him come down on a visit," and Joe Stassi sent for Tony Stassi and if you look at Joe Stassi's visiting records, Government Exhibit 60 in evidence, and you look at the year 1970, the first visit in 1970, March 9th (indicating).

Now, that visiting record is interesting for a number of reasons. If you look at it you will notice that there were very few visits prior to March 9th of 1970. If you look at it after March 9th of 1970 Tony Stassi is down visiting Joseph Stassi three or four times a month every month thereafter. Verzino told you what happened after Joe Stassi had sent for Tony Stassi. Verzino and Joe Stassi then discussed how Tony Stassi would get in touch with the Otvos people in France and Verzino testified that he and Joe Stassi had several discussions and they finally decided that the best way for Tony Stassi to meet with the people in France was to get a letter in French from Otvos.

Now, both Perna and Verzino have a very vivid recollection of that event. They testified that Otvos wrote a letter in French on onion skin paper. Why on onion skin

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paper? We know to smuggle it into the visiting room, to fold it up. And they also gave Joe Stassi Mr. Otvos' brother's address, Gerard Otvos.

Now, their recollection of that event is significant for a number of reasons. First, could they possibly make up a story like that? Why make up a story like that? Why make up a story about coded letter on onion skin paper if it didn't happen? You all remember Verzino testified that he had a discussion with Otvos and told Otvos not to use any names except the name Mr. DuValle. That was to be Tony's name. And not to sign his own name but to use an incident, some kind of incident that Gerard Otvos would know that the letter was a genuine letter, an authentic letter from Jean Claude Otvos, without using the name, and Verzino testified that what they did was that Otvos wrote in the letter or told him he was going to write in the letter about the dog of the lady who had wet on Otvos' clothes when they were on the camping trip. Do you think he would make that kind of thing up? Why? What possible reason could he have to make up a story like that if it wasn't true? And if Perna and Verzino were scheming, wouldn't Perna remember the name DuValle, wouldn't you remember the code names, DuValle, brother Tommy, Bobby, the names that appear in the letters, the names that appear in Verzino's testimony? Perna doesn't

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anything about them. The only name he recalls anybody using was Dodo for a letter drop and he didn't even know what that meant. If they were scheming you certainly know Perna and Verzino would be clamped on that because they have the letters in evidence. Perna doesn't know anything about it.

Now, Tony Stassi visited his brother and Joe Stassi returns into the compound and tells Verzino and Perna that he gave the letter to his brother and that his brother is going to France. After that Perna and Verzino began discussing who can be the customers if they actually get heroin from this connection, and they also begin discussing, you recall, lining up someone on the outside who they could trust and handle their business. Perna remembers talling about Tony Bragiole. Perna remembers talking about Mr. Sorenson. Verzino remembers talking about Red Marcone because Verzino wanted somebody he would trust in the operation and he trusted Red Marcone. Perna wanted somebody he could trust. You know, all this is a treacherous business. You have heard enough evidence to know this is a treacherous business. So that Perna wanted Bubby Sorenson, his friend, into the business on the outside. He thought he could trust him. He found out later he couldn't, but he thought he could then.

They also discussed who could be the customers for loads of narcotics of the size that Otvos said could be brought in. Perna remembers that they decided on the Malizia brothers. Verzino corroborates that and Verzino remembers that he came up with a lot of other names of people that Perna didn't know anything about.

Now, with respect to lining up somebody on the outside to handle their narcotics or to buy narcotics for them to distribute there is a real divergence in the testimony. Verzino testified that he reached out for Red Marcone and he never talked to Sorenson in Atlanta about putting him into the operation. Perna testified that he discussed with Sorenson the fact that Sorenson would go out and handle the packages with Tony Stassi. Now Verzino testifies that Perna reached out for Sorenson through a letter. Perna testifies he didn't do that, he talked to him in the penitentiary, and Joey Condella testified that he overheard Verzino and Perna discussing with Sorenson that he is going to go out and work for Tony Stassi delivering packages.

One thing you learned from that testimony is that there is no question that Bubby Sorenson was picked to go out and handle packages for Tony Stassi. If they were scheming, ladies and gentlemen, if those three were scheming about that, don't you think they would all testify to the

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same thing, that all of them were talking to Mr. Sorenson to send him out and that there would be this kind of discrepancy? I submit to you that is the kind of discrepancy that comes from people trying to remember what happened five years ago. If they were scheming it would have never come out that way.

You recall Perna testified that when he talked with Sorenson just before his release on March 26, 1970, he told him that he could expect to receive about 500 to a thousand dollars a kilo just for delivering to the customers, and you know from Perna and Verzino that approximately 260 kilos came in in 1970. You multiply that by 500 or a thousand dollars and you will understand why Bubby Sorenson wanted to go out and work with Tony Stassi in the narcotics business. He would earn just from those two loads between \$130,000, if he is paid at \$500 to \$260,000 if he is paid a thousand. That is what the narcotics business is all about, money, big money, just for doing simple tasks; obviously risky, but simple tasks like delivering narcotics.

Now, it is after Sorenson leaves and after Tony
Stassi has made a trip to France that you then have the
letters in which Verzino, still trying to reach out for Red
Marcone and by then Bubby Sorenson to see that they get
into the operation with Tony Stassi.

I would like to read, not all those letters, but some of them to you, the pertinent parts.

Government Exhibit 25 in evidence:

"Dear Susie, just a few thoughts to let you know
I'm fine and happy to hear the same of you and I'm sorry
your brother Tommy couldn't make it but as it is I guess we
pretty well went over the necessities anyway."

Do you recall that Verzino testified he had tried to bring Red Marcone in the visiting room and Red Marcone was not allowed in the visiting room because he was not on the list.

"I guess it won't make a difference if things go well as long as DuValle's lawyer and his partner"--

Who would DuValle's partner be? Verzino told you that the Dovel was DuValle and that DuValle and Dovel were Tony Stassi and Tony Stassi's partner, Joe Stassi.

"As long as the lawyers, DuValle and his partner, think it is Tommy's ballgame, well that will serve the purpose. I'd rather they assume that because I find that lawyers tend to take advantage of a woman."

You certainly know of you can certainly infer that he is not talking about a lawyer that is handling any kind of legal business for him.

"And it is best that a man take charge, so make

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mch 1 3649 sure that Dovel understands that Tommy personally received the necessary information from me that you are not in any 3 way concerned as far as giving Tommy's number to Fran. I 4 have decided against it because it is too much trouble. In-5 stead you hold it and give it also to my mom. DuValle knows 6 Tom is my cousin, so if he wants to reach him he can call you 7 8 and you can give him the number or he can call my mom." 9 If you recall Verzino's testimony, what he is telling Susie is that instead of giving Red Marcone's number 10 11

to Fran Stassi that she should keep it and she should give the number to Verzino's mother so that Tony Stassi, if he reaches out for Red Marcone or tries to contact him can reach him at either of those two places.

"Not to Fran. When you see him explain that in case he wants to reach my cousin or Jimmy Julio that he can call either place or explain to my mom that even though she doesn't like Jimmy, after all he is my cousin and to help him out. Don't go into detail. Just make sure she understands that it is a family affair and after all, first cousins are almost brothers, so to speak, and one shall never disown their own family, but I don't think there is any possibility of hearing for at least a month yet, so just get Julio's number and hang on to it. And when I see you again I'll let you know what to do. Just tell him what I told you and

Thursday."

hold on to the number.

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"Listen Cuzzie" -- you all remember Cuzzie. She is the one that was going to be the distributor, a customer

for some of the narcotics -- "will see you this week and you and her can come down again the 1st of May. That is a

And then it goes on "That is a Thursday and a good

but it is important. But after you left I got some good news

day to visit. I know it is a pain in the neck for you,

that is both good and important," and you recall that Verzino

testified that after Tony Stassi had agreed to go to France,

he then went and came back and made another visit and told

Joe Stassi that he had made the connection in France, that

he had to use the name Paul Mandolini in France in order to

meet the Otvos people but that he did meet them.

"So that is why I want you to get my cousin's number and hold it. We may need his affidavit sooner than I thought, hat is why. I remembered also that Dovel had my mother's number and may call to try to reach him there figuring that it is a relative."

Do you understand why there is all this code?

Because you heard the officer from the Atlanta prison testify that they could inspect and review these letters prior to their going out. You certainly know he is not going to talk

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about all these things like "You wait for the narcotics."
He is not going to discuss it like that.

There are other parts of the letters and if you want them, of course, you can read them. Government Exhibit 27, the May 24, 1970, letter:

"Baby, my other lawyer, Mr. Dovel, was in touch with me. By now he should have called you about seeing your brother. He says he expects good news this coming month or sooner, so that is good, anyway. He was supposed to see Tom"--Red Marcone -- "and Bobby."

Do you know who Verzino said was Bobby? Bubby,
Bubby. By the way, while we are on that, if you look at
Government Exhibit 64, which were the cards taken from
Tony Stassi in 1974 and you look down the list of names you
see a number of names one of which is Bob and if you look
at the telephone for Bob it is 680-0444, which you now from
the evidence in this case was the telephone number of Bubby
Sorenson at the Ovington Avenue address under Charlie Kenny's
name and in 1974 was then switched to Bubby Sorenson's house
where he was liwing in Brooklyn. Bob is the code name. Bob.

"He was supposed to see Tom and Bobby and arrange with them for the fees and such and so being that Tom was sick" --

And you recall that both Perna and Verzino said

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that Red Marcone had gotten sick and then rested and that is why he didn't get into the operation -- "I hope he is svill available to help me out. Has he seen Dovel yet? I know Bobby has, but I'm not sure until next week at the earliest what arrangements have been made. However, he assured me that all is splendid and should be over and done with before the next month, so keep your fingers crossed. I feel that our troubles are over. I feel sure of it."

Then you have Government Exhibit 28, the July 5, 1970, letter:

"Next about lawyer number 2, Mr. Dovel, I have heard from him. So far all is splendid. His preliminary research was very successful. You will have my papers any day now this month. However, he doesn't want to give them to Bob. He said Red is more dependable, so I said okay. If in the event Red hears from him before you come down, tell Red to bring the papers to you and you will see me what I want done, but until you see me, just put the papers aside.

Don't have them notarized or anything."

Do you recall what Verzino was telling her to do-not to get rid of him until he had an opportunity to tell
her what to do.

"Also tell Red not to tell Dovel he is cognizant of these facts. In fact I want you to tell Bob to also

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act dumb in case of anything. Don't tell him, though, that Dovel is disenchanted with him as it seems he is hard to reach and the lawyer is disgusted with trying and don't tell him."

Next is Government Exhibit 29, the August 10, 1970, letter:

"All is well with Mr. Dovel and he promises my briefs in a few weeks. Now for sure everything promises well. I would like to see you and I thought by now you had heard from Judy."

August of 1970, still waiting for the narcotics.

Next letter: "As far as the other writ, the one Mr. Dovel is handling, I'm expecting to hear from him any day. He should have those minutes he promised me very soon. When he gets them here's what I would like you to do. I am going to tell him to give my copy to Bob and Bob can bring the necessary papers to you."

By then Red Marcone had been sick and arrested and couldn't go into the business and Verzino and Perna testified that by the time the narcotics came in Bubby was the man to handle the packages for Tony Stassi.

"In other words, however, tell Bob to play dumb and just act as if he doesn't know where the minutes are going until he hears from me. In other words, let Dovel

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think that Bob is going to hold the money until he hears from me and that you know nothing about it.

"Now, stress that he should play dumb because

I'd rather have it known that you are helping as lawyers

are prone to take advantage of women and are less likely

to skin a man."

had with Joe Stassi about the fact that Tony Verzino should not be using his wife. He didn't like women in the business. That is why he is telling him to play dumb. He doesn't want anybody to know Susie Verzino is in the business. He has lost Red Marcone and the one he can trust is Susie Verzino.

May until September, October of 1970 they were waiting for the narcotics to come in, the narcotics Otvos had told them they would be getting from clients. It is certainly a coincidence that during that same waiting period, May to September, October of 1970 Mastantuono testifies that he went to France in May with Danielle Ouimet, ordered the Citroen under the instructions of Jacque Bec, then took it to Biarritz and then waited until August to pick it up. He took it to Biarritz so that it could be filled by the Uncle's mechanic and you recall Perna testified that in a conversation he had had with Otvos, Otvos told him that they

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would have to go over and meet his people, the Uncl

Now, Verzino testified that he didn't know the Otvos people were, only Perna. If they were schothey certainly would have bothered to and remembered you the Otvos people were the Uncle.

Mastantuono testified that he was finally to by Jacque Bec that the Citroen was filled with heroin a he and Danielle Ouimet went to Biarritz, picked up the car, drove it to Paris, placed it on a ship and sent it Montreal under Danielle Ouimet's name.

approximately in mid-September and in the latter part of September they drove to New York to deliver it, and if you look at Government Exhibit 96, Michel Mastantuono's passpor you will see that he entered the United States from Canada September 27, 1970. If you look at the Abby-Victoria Hotel records you will see that he and Danielle Ouimet checke into the Abby-Victoria on September 27, 1970, and it shows, that is,the Abby-Victoria records, that they were here the 27th, 28th and 29th by the calendar that the court instructed you about and that they arrived Sunday, September 27th and they stayed here Monday and left Tuesday.

But Mastantuono testified that either the next day after he arrived with the Citroen

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that, in other words the 28th or 29th, a Monday or a Tuesday, he met with Bec and he drove up to a coffee shop --

MR. KADISH: I object to that characterization of Mastantuono's testimony. I clearly remember him saying Saturday.

THE COURT: Don't argue. He is making his argument.

MR. NESLAND: The Saturday -- you have the

government's exhibits to show when he was here. The first

time he comes is the 27th and that is a Sunday. Is he going

backwards? He comes in on the 27th and takes us back on

the 26th?

So he testified that he and Bec went up to the coffee shop and there they met Andreani, the Frenchman, the French representative in New York, and he told you in minutest detail what happened after he arrived at that coffee shop. Andreani took them into the coffee shop and then left and came back and brought them out, and Andreani met, a few feet from Mastantuono, Tony Stassi and Tony Stassi at that time handed him the bag which Mastantuono testified that after he got to the garage he received from Andreani, which had the Citroen tools inside the bag.

Mastantuono testified -- I won't go through it completely -- that they drove around the city a while in the convoy of Cadillacs and then went up a highway to the

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diner, by the tower and to the diner. Of course you have those photographs in evidence. From the diner they waited a few minutes and then he was taken to a garage in the rear of the house and the house he has identified as well as Mr. Mirabella's house. There is no question of the fact that there was a convoy of Cadillacs on that trip. Even Danielle Ouimet remembers that after they had gone to New York with the Citroen and she was later told that Michel Mastantuono and her were in the heroin business, she said that he told her that early one morning when he had her car too and taking it to deliver it a convoy of Cadillacs, two or three or three or four Cadillacs surrounded him and showed him the way.

After they arrived there -- and Michel Mastantuono testified and told you who was there on the occasion. Mr. Sorenson, he recalled him being in a white Cadillac. Mr. Alaimo, he recalled him being in a blue Cadillac. Mr. Consalvo, the photograph which is in evidence, he identified him as being in the other Cadillac, which he thought may be gold, and he testified what he saw those defendants do on that occasion.

When he arrived he, Andreani and Bec removed the 40 kilograms of heroin and put it into four cases, removed it from the traps of the Citroen and placed it into the

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four suitcases. Mr. Mastantuono's testimony about sorting the 40 kilograms of heroin is interesting. He testified that he put different amounts of heroin in each of the suitcases, not the same amourt, different amounts, more in one, less in another. And he also testified that that heroin, the 40 kilograms could have gone into two suitcases.

I suggest to you that the Malizia brothers were not the only customers for the narcotics, but the only ones Verzino and Perna knew about. Verzino knew that on the second load there was a Tappie and a Whitey biebowitz.

Perna didn't even know that. They didn't know every customer. They weren't on the outside. They were on the inside. But they placed different amounts in four different suitcases and he testified that Stassi and Andreani then took the four suitcases and put them into the trunk of Mr. Sorenson's white Cadillac and he testified that he called -- that Mr. Sorenson was in his white Cadillac, he got out, opened the trunk and Stassi and Andreani put them into the car.

After that he testified, of course, that he got lost. He had to stop at a golf course and there is a picture of that in evidence that he recognized and that he finally got back to New York, was paid \$40,000 and returned to Montreal.

Now, I submit to you that that 40 kilograms

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that was received either on September 28th or the 29th of 1970 was the first part or the second part of the two-part load that Verzino and Perna testified came in around September-October, 1970. They testified it came in two parts. I submit to you that one of those parts was the one Mastantuono delivered.

Now, what happens after the first load is delivered is important for you to understand. What developed thereafter with respect to the dissention between the insiders and the outsiders and with respect to the insiders in Atlanta, and now Verzino and Perna testified that a finally put Bubby Sorenson into business and one of his functions was to handle the narcotics there, the 50 kilos.

What happened after the first load? Bubby

Sorenson drops off the 2 kilos with Susie and says he is

not going to handle, refuses to handle it. That is one

incident both Verzino and Perna recall. They recall it, I

submit, because then Verzino had to go out or had to meet

with Susie and instruct her what to do with the narcotics.

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Now Verzino and Perna testified that a load came in in either November or December of 1970, 140 kilograms of heroin. You know that Mastantuono never delivered any of those, and you also know common sense will tell you he was not the only courier in this organization. He didn't even know that the Fiat was coming in to New York until it was hung up in Montreal and they had to call upon him to get it in to New York, because the Italian courier didn't have the proper visa to bring it in to New York.

What happens after the second shipment is important to understand to Perna and Verzino. They were told the holiday shipment, the third shipment was coming in. It came in close to the holidays. And they testified about the problem they had with the \$25000 that Bubby owed Suzie. Bubie did not want to pay Suzie the \$2500, and they had to tell Joe Stassi to tell Tony Stassi to take care of that. And that is what happened.

of the things he discussed with Tony Stassi at the Casa Del Monte, that \$2500. And Verzino also testified it was after that event that he and Joe Stassi discussed that Suzie should not be in the business and they decided that she should receive money as their end, not narcotics. And if you read Government's Exhibit 33, the Verzino letter

of January 14, 1971, you will see that is what he is telling Suzie.

After that event they are all waiting for the third load, the Christmas load. In the spring of 1970 Perna is told it is on the ship, it is on its way. Perna testifies he gets the New York Times or some paper and he tries to follow the ship. He finally gets tired and he quits. But the evidence here shows that at least one other shipment came in in 1971, the one Mastantuono delivered to Pierro's house for these defendants in 1971, June of 1971.

He testified that approximately in June of

971 he was called by Bec to come to France. There he

met for the first time with Joe Signoli. Signoli told

him there was a Fiat hung in New York and he would pay him

\$60,000 if he would get that Fiat out of Montreal and

into the United States. This is the incident that shows

without question that there were other couriers bringing

narcotics in in these cars. Michel was just one of them.

Michel agreed. He returned to Montreal, and he, Graziano, Rosso, Jean Cardon, Jean Cardon's wife, Danielle, they dismantled the Fiat, put the heroin into Cardon's station wagon, and then came to New York. Before they came to New York Danielle Ouimet was sent to Miami to

meet a man by the name of Mr. Felix. She met him, took
him to a telephone booth, and he called Rosso at her
apartment, and when he got off the phone, Michel Mastantuono
testified that Felix Rosso told him, "We have got to go to
New York; we have to deliver it."

Who is Felix? You know from Danielle Ouimet he spoke French, that he had a Corsican or a Marseillian accent. You know from Danielle he had only been in Miami a few months. I submit to you that Felix was just like Andre Andreani, he was the French representative in Miami, and if you recall that just prior to Mastantuono's arrest, he was asked by Joe Signoli, "Do you want to be the French representative in Miami, to act as the intermediary between the French and the American buyers."

That is what Felix was.

After Danielle returned she and Mastantuono
then drove in Mastantuono's car to New York. That night
Felix Rosso and Mastantuono go over to New Jersey and
deliver Cardon's station wagon with 70 kilos of heroin.
Tony Stassi, Bubby Sorenson, Charlie Alaimo, Carmine
Consalvo were identified, and Mastantuono also has identified Albert Pierro, Albaduce, as being at that house when
he delivered the car.

Albaduce is the same person, Verzino and Perna

Malizias as receiving the loads of narcotics. He was the one that was handling the money for the Malizias.

I submit to you that that third loan came in, that Perna and Verzino was simply cut off, and that explained why when Albaduce came into prison Joe Stassi told Tony Verzino,

"Don't talk to Albaduce; don't talk about the business to Albaduce." And they were cut out for a number of reasons.

Verzino and Bubby Sorenson on the outside, and on the inside Verzino running his meath off. And if the defense witnesses in this case proved anything, they proved that Verzino went around in Atlanta Penitentiary running his mouth off. And Perna testified to that. Verzino is going to Europeans and South Americans trying to make drug connections, talking about the business.

Verzino testified not only was he going around and doing that, he was writing down the names, writing down the addresses. He was a narcotics dealer; he was scheming to get more narcotics. Why? As far as he knew, nothing else was coming in. What happens because he is running off his mouth and Suzie Verzino is on the outside getting drunk?

Perna is about to get released and Joe Stassi

and Perna discuss what he is going to do when he goes home.

I am sure that even though Perna testified as the first
witness five or six weeks to go, you recall what those
discussions were.

replace Bubby in the business. Bubby is shooting his mouth off, spending a lot of money. Kill him. Suzie, she is shooting her mouth off. You kill her, too."

And then they discuss what to do with Verzino inside the prison. Joe Stassi was going to have him poisoned.

Is there any wonder why Perna and Verzino were cut out through 1971 and 1972? Because it was Verzino who was handling the business on the inside. He was the friend of Joseph Stassi and he was no longer trusted.

Perna testified that after he was released he went to Suzie Verzino, picked up the \$40,000. He thought he should have had more. Then he meets with Tony Stassi first at the Quaker Nouse. What is the first thing Perna testifies that Tony Stassi asked him about?

"Does Bubby Sorenson owe you \$200,000 or \$250,000?"

Perna says, "No."

Perna meets him again at the Cas Del Monte.

Again alone with Tony Stassi.

\$250,000?"

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"Does Bubby Sorenson owe you \$200,000 or

Perna again tells him no, and tells him in front of Bubby Sorenson the next time they meet at the Casa Del Monte, "No, he does not owe us any money."

Now, what is Tony Stassi talking to Perna about? Perna does not know. You only find that from Verzino's testimony, because Verzino's testimony is that he had a conversation with Joe Stassi in which Joe Stassi asked him if Bubby Sorenson was holding money for him, if Mario Perna had sent for money from Bubby Sorenson, and Verzino went and talked to Perna, and Perna said, "I sent for \$2500; I got \$1000. He gave \$1000 to my sister."

Perna remember that. The rest of the discussion with Joe Stassi was that Joe Stassi told Verzino that Sorenson is short 200 or 250,000 dollars, and he says that he is holding it for you and Perna.

Now you can bet that Verzino, if Verzino was laying claim to any money, he was not going to tell Perna, and he testified he didn't know what Tony Stassi was talking about.

Perna's meetings with Stassi at the Casa Del Monte are interesting, because each time he is told in the beginning that a shipment is coming in, a shipment is

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coming in. Finally late in 1971 -- not late in 1971 -in July or August Perna testified that he again met with Tony Stassi and he said, "What about the load?"

And Tony Stassi told him, "It is in; it came in in June."

Perna tells him, "I was home. Why didn't I get a piece of it?"

Stassi told him it was already committed. He was cut out again on that load. And it is then at that meeting that Perna confronted Tony Stassi and asked him, "What about the conversations I had with Joe Stassi in Atlanta about killing Bubby and killing Suzie?"

Perna testified that Tony Stassi told him with respect to Suzie, "I will help you on that, but with regard to Bubby, I got nothing against him. You do what you got to do."

The power of the Stassis. But he had given him a free hand; he could kill Bubby Sorenson if he wanted. No retaliation.

Of course, you remember that after that Mario Perna, Joe Condello and Danny Grillo went over with guns that night and sat at Sorenson's house. Fortunately for Mr. Sorenson, he did not go to that apartment that night. After that attempt there were a number of months that went

by before Perna is able to contact Stassi again. By the time he contacts him again, in the spring of 1973, Perna had teamed up with Ernie Malizia, the old narcotics customer, and Malizia asks him to try to get in touch 5 with Tony Stassi and see what he is doing. Perna does it. And they again meet at the CasaDel Monte. time he brings Malizia, who is a fugitive.

Tony Stassi savs, "Malizia, you get out of here." And he and Perna discuss what is going on, and Perna is told by Tony Stassi at that time, "I am leaving for France. I am trying to arrange for another shipment from France." And he told Perna that he and Malizia can have a piece of that.

Now, the interesting thing at this meeting -this is at the meeting some time after February of 1973 --Tony Stassi tells Perna, "Oh, I was talking with Joe. The thing about Suzie, the thing about Bubby, forget about it."

Perna does not testify that he knows why he was told to forget about it. He was just told that. He is not going to ask reasons from Tony Stassi and Joseph Stassi. But if you look at Verzino's testimony you will find that there are no conversations between Joe Stassi and Verzino about narcotics or business, or anything else,

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until Joe Stassi says to Verzino, "Perna came up to see my brother with one of those Malizia brothers."

was going to maintain a friendship with Verzino, but not talk about the business with him. That is what he and Perna discussed before Perna was released. And it was after that that Verzino testified that he had one discussion with Joe Stassi in Atlanta in which Joe Stassi asked him about the plan to pick up the narcotics in Canada, rather than have them imported in to New York, the same load or shipment that Perna and Malizia were negotiating with Tony Stassi and Bubby Sorenson at Brione's and at the diner in Brooklyn.

Now, that is a brief summary of what the evidence shows and what the Government contends happened in this case.

Now, of course, you know, just from running through the facts, those facts come from the testimony of Verzino, Perna, Mastantuono, and Joey Condello. They are lifelong criminals. They have made their livelihood in crime. Each of them admitted the crimes they committed in the last 25 or 30 years. They told you that at the outset. The issue of whether or not they are criminals is not here before you; the issue here is

whether or not they could or ever lied or perjued themselves. That is obvious. But I submit to you on the evidence in this case it is just as obvious what they told you from that witness stand happened, that it is the truth. You scrutinize their testimony and scrutinize the exhibits. You will find they are telling the truth. They are telling the truth because the rest of their lives depend on it. Their deals with the Government are conditioned upon their telling the truth.

MR. NEWMAN: There is no such testimony.

I object.

MR. GARLAND: The language should be "In the opinion of the Government."

THE COURT: You can make those arguments.

MR. NEWMAN: May I have a ruling as to

Mastantuono? There was no such agrement with Mastantuono.

THE COURT: I don't care about that one way or the other. The jury will recollect what the evidence is.

There was no written agreement as to Mastantuono.

MR. NESLAND: You recall Perna's and Verzino's deals. Those deals become null and void if they are shown to have perjured themselves and framed people in an attempt to get out.

What does that mean to them? That is the

first of all, it means that their wives can be prosecuted for the charges that are now pending against them, Perna's wife, Verzino's wife, if they lie. The deal is off.

They can be prosecuted on those charges. If they testified truthfully, the charges against their wives are dismissed.

The second part of that agreement, they can be prosecuted for all the crimes that they have admitted to the Government.

Now, obviously, with respect to Perna, who already faces over a hundred years from the Federal Government, and 8-1/3 years to life in the State, that is not any real threat?

there. If he is prosecuted for all the crimes, he faces 8-1/3 to life in the State Courts. If he is prosecuted by the Federal Government, he faces more time. But the real threat to them, and they know it, is they get up here and frame somebody and lie and perjure themselves and they are sentenced by the Court, what do you think the Court is going to do? Give them a break? Show them leniency? Do they want the Court to know that instead of cooperating, they simply got up on the stand and lied and framed and perjured themselves? Will that help them?

And it is the sentencing Judge, ladies and gentlemen, that makes the decision as to what their sentence will be, whether they will receive the maximum or whether they will receive less. The Government does not sentence these witnesses; the Court does. Obviously, they hope that they will receive the most lenient sentence they can receive under the law. But that decision isn't in the hands of the Government; it is not in their hands; it is in the hands of the Judge. And, obviously, they know that the Court will be influenced by whether or not they have been shown to have perjured themselves, rather than told the truth when they cooperated with the Government.

With respect to Mastantuono and Condello,

Condello's cases have been dismissed by the United States

Attorney's office subject to approval in Washington.

All that is pending against him is a State case.

With respect to Mastantuono, he has already been sentenced; he got five years from Judge Weinfeld.

And what can happen to him and what can happen to Condello is that if they get up and perjure themselves they simply face another prosecution.

What motive do they have to get on that stand and name these defendants in lieu of the true conspirators

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in this case? Why name anybody here, the the people they were dealing with? You know they were involved with other people; they don't run a narcotics operation by themselves; they could not. They were in Atlanta.

Why name Tony Stassi and Joe Stassi? Why name Sorenson? Why name Alaimo?

MR. NEWMAN: Nobody named Alaimo.

MR. NESLAND: Mastantuono named Alaimo.

MR. NEWMAN: He didn't name him; he identified

him.

THE COURT: He pointed him out.

MR. NESLAND: When Mastantuono lied to the Government about this case, he didn't put anybody in that was not in there already; he simply left the Stassis out. In this case these witnesses have a very, very powerful motive, I submit to you, to be truthful, because they know there are other witnesses. Both Perna and Verzino know that in testifying, there are other witnesses who will come in and tell their story. Perna knows that he was set up by Condello.

There are other witnesses testifying, and they know that if they get up here and lie what will happen.

One of the other witnesses is going to put the lie to that testimony. They can't be sure what the other witnesses

are going to say. It puts a lie to the testimony, just as Perna and Condello and Mastantuono put the lie to what Verzino first told the Government in August of 1974, that is, that the Stassis were not involved.

gentlemen have the opportunity to compare their testimony, to compare it not only with the testimony of each witness, but with all of the Government's exhibits, to determine whether or not they are telling the truth, whether or not they are framing these defendants or naming them because they were involved with them. They all testified here in the last six weeks. But you know from the evidence in this case that they were telling the Government about this case, about the facts and events in this case long before they testified here, with respect to some of the witnesses, months ago, with respect to other witnesses, years ago, they were telling the Government about this case.

And before I go into the statements that they were making months and years ago I would like to go through what I consider and what I contend are the significant pieces of evidence in this case. Obviously, it would be better if this were a question and answer session, where you have certain questions you would like to ask with respect to the evidence and where I would be able to answer

those questions. But that is not the way it is done.

The law does not go that way. So what I select here may be pieces of evidence that some of you consider significant and maybe some other pieces of evidence that you do not consider significant.

I ask you to consider all the evidence when you deliberate, to discuss all the evidence in this case, so that you can discuss among yourselves and with each other what you consider to be the significant evidence.

At the top of the list of what I contend is significant evidence, significant pieces of evidence in this case, is that the evidence here proves that these witnesses were associated with these defendants, that they did not make up an association. The evidence here shows that they were associated with each other.

In considering the evidence on association, the central figure or figures are not the Stassis, but the central figure falls on Mr. Sorenson, because that was his role in the conspiracy. He was the contact man. He delivered the packages.

Joe Stassi in Atlanta was the big man behind the scenes; Tony Stassi outside of Atlanta was the big man behind the scenes, but Bubby Sorenson was the front man.

He was the man out doing the leg work.

You know from Perna and Verzino's testimony that the main customers for the narcotics were the Malizia brothers, the ones that they knew about. And you knew they were the customers at least until they went on the lam in the spring of 1971.

Malizias and these witnesses and these defendants?

You will recall that Perna testified that when he teamed up with Malizia, that he and Condello met Malizia at the Evergreen Bar, Bubby Sorrenson's bar. Perna testified that he and Malizia had meetings at the Casa Del Monte and at Brione's, and at the diner in Brooklyn, that Perna testified that he and Malizia met Sorenson and Stassi several times after that negotiating for the Canadian shipment of heroin.

perna testified that he and Malizia in the fall of '73 loaned \$2000 to Bubby Sorenson, and if you look at Government's Exhibit 4, Malizia's lis vou find "BUB 2," and if you look at Government's Exhibit's 9, and you recall Government's Exhibit 9, the list that the agents and the police officers seized from Ernie Malizia after he was arrested, the one that Agent Bradley testified had the coded telephone numbers and he was able to determine that by reversing the numbers and adding one, you will remember

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able to determine that the number for Mor, backwards is 815-0586, and if you reverse that and add one, you get 796-1629, Perna's telephone number, as the other evidence shows.

Now, there are two other numbers here for BW.

If you will look at the bottom number for BW and you reverse it and you add one, you come up with 438-9472, the numbe of the Evergreen Bar, Mr. Sorenson's bar.

Now, there is another number on here for BW.

It is probably the most coded number on Malizia's coded

list, because it begins with two blanks, and then goes on

to 2-6527. Now, if you reverse that number and add one

even to the blanks, you come up with 836-7311.

That number, ladies and gentlemen, the Government linked to Bubby Sorenson through the Golden Gate Motel records that were put in evidence. You recall the Drug Enforcement Agent testified that he observed Sorenson at the Golden Gate Motel in 1971, July, I believe, 1971.

And the other agent picked out the Golden Gate Motel records, found one under the name of Benjamin Casal, a name that other people have testified was used by Bubby Sorenson. And if you look at the Golden Gate Motel records you come up with the number, the second number

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that is listed to BW-836-7311.

Now, that number is pretty interesting for a number of reasons. First of all, unlike the other numbers, it goes all the way back to 1971. It does not appear on Perna's list. If you look at Perna's list, he has a number of telephones for Bub. There is the Bub bar, 438-9472: there is the after hours club, 854-9761; there is Bubby and Don, 377-5989; there is a number for Clair, who you recall was Bubby Sorenson's wife, 745-2214.

Nowhere on Perna's list does the 836-7311 number appear.

Now, I submit to you Malizia had that number because he was associated with Sorenson that long ago, and you may find even longer ago than July 1971.

MR. NADEN: I object to that. There is no evidence of that at all in the record.

MR. NESLAND: They are certainly entitled to consider or infer if in 1971 he knew him or prior to that time.

MR. NADEN: That is an absolute distortion; this list was not taken in 1971; it was taken in late 1973 or early 1974, and that is an inference that the jury cannot draw from the evidence, and it is attempting to exaggerate the extent of the association.

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THE COURT: To me it is not that important.

MR. NESLAND: Now, the association between

Verzino and Perna and Tony Stassi, if you look at the

visiting records of Perna, if you look at the visiting

records of Verzino you will notice that they had simultaneous

visits with Tony Stassi in Atlanta. If you look at

Verzino's telephone book, Government's Exhibit 12, you will

notice telephone numbers under the initials GO 305-920-6504.

Other evidence shows that was Tony Stassi's telephone

number in Florida.

Take New York NY-877-9636, Tony Stassi's telephone number under Doris Kaye's name in New York. You also know the association of Perna and Verzino with Stassi, Tony Stassi and Joe Stassi and Bubby Sorenson from the tape recorded conversation that is in evidence, when Bradley and Condello were at the Steak & Brew and Condello and Perna were having a discussion over on the side that was tape recorded. You listen to it. They discuss Tony Stassi; they discuss The Old Man; they discuss Bubby.

You also recall that at other times when Condello and Bradley were meeting with Perna, he is talking about Bubby Sorenson and Tony Stassi. You also know that Condello introduced Agent Bradley in late 1973 to

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Bubby Sorenson, and at the first meeting they had the conversation with Sorenson in which they discussed the load that Condello had previously discussed with Sorenson that they were expecting. And, of course, Sorenson told them that he had not heard anything at that time.

Now, with respect to the association between Bubby Sorenson and Tony Stassi, it takes us back to Government's Exhibit 64, which were the cards seized or taken from Tony Stassi. If you look at there, there are a few names and a few telephone numbers. If you go to the first one "Bill 436-2806," that number by other evidence in this case is Donald Compitello's, and you know from other evidence in this case that Donald Compitello is the man that worked for Sorenson at the Evergreen Bar and at the after hours club. And if you continue looking at Mr. Stassi's telephone list, you come to this Salon, 438-9472.

Now you know from other evidence in this case that that is not a salon, but that that is the Evergreen bar. And if you look below that, you come to the name Bob, and if you look to the side of that you get 680-0444, and that from other evidence is the telephone number that was first at the Ovington Avenue address under Charles Kenny's name, and later was at Bubby Sorenson's address.

Now, there is little evidence of the association

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they knew each other is the testimony of Detective

Molfetta. He testified that in the summer of 1974 he

was in the after hours club, Bubby's after hours club,

and he saw Consalvo come in. He identified the photo
graph. He was identified to him as Joe. He had testi
fied that after Consalvo came in the after hours club

he met with Sorenson, that they hugged, and then went over

to a table and sat by themselves, that at one point

Sorenson came over to him and told him, "I have got to go

over there and talk business."

That leaves us with Alaimo. That is the only person, ladies and gentlemen, that the Government cannot prove by independent evidence was associated with Stassi and Sorenson, or Joseph Stassi. The only direct proof you have of Alaimo's association with Tony Stassi and Bubby Sorenson is Mastantuono's identification of him as being a participant in the Citroen delivery and being at the garage when the Cardon station wagon was deliver to Pierro's house. But even here you have circumstantial evidence. You know that Carmine Consalvo can be linked with Bubby Sorenson, and you know that Charles Alaimo in 1975 attended Consalvo's wedding, and in 1973 was with Consalvo in Florida. That we have by stipulation, that if an officer

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 from Florida were called he would testify that Carmine Consalvo and Alaimo were in one car and Lino and another individual were in another car.

Now, throughout the trial you have heard defense counsel object on terms of relevance and on other grounds to this proof, this proof of association, and the Judge instructed you it is admissible for you to consider. I submit to you this association evidence is pertinent and has relevance and serves two vital functions, that Verzino, Perna and Condello are testifying about people here who they knew, who they trusted.

examination that they are framing these defendants, but you certainly know these defendants are the associates. They didn't pick these defendants out of the air; they didn't make up stories about them. They were associated with them and they were in the narcotics business with them. That is why when Joseph Stassi took the stand, besides claiming that he was framed in that first case, claiming he was down there on a mining deal, not to import heroin, he testified he was close to Verzino, but never talked to Perna, never talked to Condello. Obviously, he had to admit his relationship with Verzino and Kapatos, because Government's Exhibit 31 shows that. He certainly could

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And you have all the letters in evidence. ms23 not deny it. But he denies ever walking or talking with Perna.

Now, on its face your common sense tells you that is not even reasonable. He is a best friend with Verzino; Verzino was Perna's partner, and Perna never talked to Joe Stassi and Joe Stassi never talked to Perna? Perna and Verzino are the best of friends with Condello, and Condello never talked to Joe Stassi? That is the same thing that Kapatos and Grillo came in here to testify to.

Verzino, Stassi and Kapatos were associated together; Perna, Condello and Grillo were associated together. But if you believe Kapatos and if you believe Grillo, those three had nothing to do with each other the whole time they were in Atlanta.

DEFENDANT JOSEPH STASSI: How would you know? MR. NESLAND: The second purpose of the association evidence is to corroborate Mastantuono's identification of these defendants, Stassi, Sorenson, Consalvo, Alaimo and Pierro as the recipients of the Citroen load and the Cardon station wagon.

You know from Mastantuono's testimony and Agent Bocchichio's testimony that Mastantuono has looked at hundreds of photographs, and out of all those photographs only a portion has he identified. He identified these

defendants. He didn't know any of them; he didn't know their names, simply identified them.

Now, is that possible that he could pick out people that associated together that he knew nothing about, other than the fact that they were at the garages when he delivered the Citroen and when he delivered the station wagon?

Now, the timing of the first load I mentioned in my summary of facts was September of 1970. Perna and Verzino testified that in September and October the two-part load came in of 140 kilograms. Perna testified it was in late September or early October.

Verzino testified it was in October. Verzino remembers one thing about that load that he learned.

Suzie visited him on that day, and on the same day Tony

Stassi visited Joe Stassi and told him. If you look at

Government's Exhibit 62 in evidence for the year 1970, you will find evidence of those visits, that Suzie Verzino visited Tony Verzino on October 2nd, and that Tony Stassi visited Joe Stassi on October 2nd, Exhibits 60 and 62, and if you look at those exhibits, that is the first simultaneous visit that Tony Stassi and Suzie Verzino had at Atlanta.

October 2nd was a big day. And you know from

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Mastantuono and from the hotel records, from his passport, that he came to New York on September 27 and that he delivered it either the next day or the day after that, September 28 or 29th, to the garage in Larchmont.

You also have Mr. Mastantuono's identification of the house where he delivered it. He identified that house as far back as 1973 as the place he delivered the Citroen in September of 1980.

You have heard a lot of testimony about that delivery spot. You heard Mr. Mastantuono, you heard Mr. Bocchichio, you heard Mr. Mirabella, and you heard Salvatore Auter.

You remember Agent Bocchichio's testimony that in the early part of 1973 he and Mastantuono began looking all over New York and New Jersey for the tower. He remembered the tower. The picture is in evidence. They finally found it. Mastantuono and Bocchichio turned off the road and went to a diner, and he recognized the diner.

Now, after that they started going around that area. First he picks out a home on Emerson Street as one that is familiar, and you know from the picture in the exhibits that it had a rear garage. After he looked at the Emerson Street house Bocchichio testified that he

Stassi. He then took Mastantuono up to Holly Place, where Sal Autera lived at 35 Holly Place, and when they get there, Bocchichio testifies they pull into the block, and even before they get to the house he sees 19 and 23 Holly Place, he says, "It is one of those houses, one of those houses."

Remember Bocchichio testified how excited he got, "It is one of those houses." He also recalled that he picked out the golf course where they had stopped and where Bec had talked to the milkman in order to try to get back to New York.

Now, Agent Bocchichio and Mastantuono when they went up in that neighborhood lad no idea who lived there, other than Salvatore Autera, and when he Picked out that house, Joseph Mirabella's, they had no idea who Joseph Mirabella was. There is no reason in the world for them to suspect 19 or 23 Holly Place would have any connection whatsoever with anybody else.

What do we know? What is the evidence?

You know from Salvatore Autera's testimony that he is a very,

very close friend of Tony Stassi. He calls him Uncle

Tony. You also know that he is a very good friend of

Joseph Mirabella. He was his neighbor for approximately

eight years.

when you think about Salvatore Autera you remember that he ran the Bell Pharmacy, and if you recall Verzino's testimony, that on the first load in September he had a discussion with Joe Stassi and Joe Stassi said that Tony Stassi had to borrow money from a druggist friend of his. He did not know, just a druggist friend of his in order to front the money to get the narcotics.

(Continued on next page.)

Now, you heard Mr. Mirabella testify. I will go through his testimony. First you recall Mastantuono testifying that when he went down the driveway he couldn't swing in, he had to go forward and back in. When Mr. Mirabella was cross-examined by me he testified you couldn't swing into his garage, you had to pull down and back in. He says that is the way we do it.

How could Mastantuono know that? I submit to you that the evidence shows that that Citroen was delivered to Mirabella's house and Mr. Mirabella testified that it couldn't happen; nobody could borrow his garage, even though he acknowledges his close friendship with Salvatore Autera and acknowledges that he even knows Mr. Stassi and met him once or twice, and he is sure nobody borrowed his garage in 1970.

Accepting his testimony that he doesn't know

Stassi except for the two times he met him, didn't know his

name, and that the calls to Carol Hoover in June of 1973,

when Autera still lived on Holly Place and still had a tele
phone, and that the two calls to Tony Stassi in January,

January 25th and January 26th to Tony Stassi's residence

were made not by Mirabella but by Salvatore Autera, even

though neither Sal Autera nor Mirabella remember that Sal

Autera was there in January of this year, even if you accept

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that, let me suggest to you what happened: suppose in 1970

Tony Stassi asked Sal Autera for a garage. You know from

Sal Autera that he bolts for his garage and infrequently uses

it, stores things there. Now, suppose Autera were to turn

to his good friend Joseph Mirabella and ask to use his garage.

Now, Mirabella testified he doesn't recall that.

It is doubtful that Mirabella would tell Autera no, but it is also doubtful that he would remember whether Sal Autera five years ago asked to borrow his garage. He couldn't even recall when Autera visited him, whether it was May of 1974 or May of -- this is after he had left the neighborhood, that is, Salvatore Autera and moved to Miami. He couldn't remember if he visited him in May of 1974, May of 1975 or March of 1975, but he did recall that he had been up here once with his wife.

Now, Salvatore Autera testified that within the last year he has been there twice with his wife. He was there at Christmas and he was there in February of this year. Now, if Mr. Mirabella can't remember that Salvatore Autera has been in his home twice in the last year, do you really expect him to remember whether or not five years ago Sal Autera asked him to borrow his garage? And you know from the evidence here that Mastantuono delivered that Citroen either on Leptember 28th or 29th, a Monday or a Tuesday of

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By the way, I forgot a piece of association evidence. There is Mr. Sorenson and Susie Verzino (indicating). They were associated on the outside.

You know that on a Monday or a Tuesday that Mr. Mirabella would be at work and he would go to work approximately 8:30 in the morning. You know that his children in September of 1970 were in school and that they left between 8 and 8:30, leaving only his wife. Obviously he doesn't know where she was in September of 1970, especially September 28th or 29th.

If you reliew Mastantuono's testimony, the manner in which he was escorted to Mirabella's house suggests that these defendants were waiting for everyone to clear out of that house. Mastantiono testified that when he and Bec went into the Thruway diner it was approximately 8 o'clock in the morning. Andrean told them to wait at the diner, "It was not ready." What was not ready, the Citroen? The Citroen is ready. The delendants? They are ready. They have been driving aroun! for a couple of hours. What is not ready? The garage.

Mastantuono tistified that about 20 minutes later Andreani returned, come into the diner and tells them it is ready. The Citroen is still ready. The defendants are

still ready. The garage is ready.

Andreani and Consalvo in the red Charger through various streets to the driveway, where he pulled in front of the Charger. The white Cadillac is sitting out in the street and he went to the rear of that house and made the maneuver necessary to get into Mr. Mirabella's garage, and there they unloaded the Citroen. Who does Mastantuono testify he saw at Mirabella's house? He didn't testify he saw Mirabella. He didn't testify he saw anybody else other than Stassi and Andreani. Andreani was in the garage until the narcotics were removed from the Citroen, placed in the suitcases, taken into the next room and then when he and Bec left, sitting on the upper driveway they saw Andreani and Stassi walk out and put the narcotics into the Citroen.

He testified he only saw Sorenson outside in the white Cadillac and he never saw Consalvo and Alaimo again.

Now, you recall that he testified that when he first got there and he went to the garage Andreani told him to be quiet, there were people sleeping upstairs, and Andreani may very well have believed that because you know Andreani didn't select that. It was in a private residence and you are in the garage and it is early in the morning. Andreani may well have believed there were people upstairs,

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sleeping because he was in the garage until they finally took the narcotics out to Mr. Sorenson's car. The government doesn't accuse Mr. Mirabella and hasn't indicted Mr. Mirabella and has not elicited any testimony about him at all. They haven't accused Salvatore Autera and there have been no witnesses about him at all. It is possible that it may be the wrong house. I submit it is improbable, but it is possible. It could have been another house in the same area. But I submit on the evidence here it was Mirabella's house.

I submit the more important fact is that these defendants were the ones that Mastantuono identified as the people he delivered it to.

The next significant piece of evidence is the second load, the second two-part load that Verzino and Perna testified came in in November or December of 1970, the 120 kilograms.

Now, I told you before no part of that load was brought in by Mastantuono. Now, if these witnesses were together framing these defendants you certainly cannot believe they wouldn't have put one load in there by Mastantuono, but it is on this load, the second load, and after this load that Verzino testifies that Susie comes down to Atlanta to tell about the load, tell him she got the 4 kilos from Bubby and that he was showing her a lighter

he said he got from his Frenchman, Government's Exhibit 2.

Now, Verzino never saw the lighter. He only heard from Susie that Bubby Sorenson was flashing a lighter that he got from his Frenchman, and we know that is not Bubby Sorenson's lighter, even though Perna, when he came home, he testified, that he met with Sorenson in the summer of 1972 and Sorenson showed him a lighter that he said he had gotten from his Frenchman and Perna testified that was the lighter.

Mr. Naden cross-examined Perna on that, if you recall, and he said "How did you pick out that lighter, Mr. Perna?

"A I saw it among ten other lighters. Ten other lighters were shown to me and I picked that one."

Condello testified that when he was with Sorenson he saw that lighter. He thought that was Sorenson's lighter too, but he didn't know where Sorenson got it. He simply testified that he saw that lighter with Bubby Sorenson.

Now, where and when did Mr. Sorenson get a lighter like that? The answer is supplied to you by Mastantuono. That is Mastantuono's lighter. Mastantuono testified, and you recall this, after he delivered the Citroen Bec asked him to purchase a lighter when he was in France to give to the American buyer, so Mastantuono testified that he went to

Orly Airport and purchased two lighters, two identical lighters, this one and the one he gave to Bec for the American buyer, and in November and December of 1970 Susie Verzino was telling Tony Verzino about "The lighter that Bubby has." I suggest to you that that lighter is an unexplainable piece of corroboration. It serves not only to corroborate the testimony in this case but to show to you that Bec delivered narcotics to Stassi and Sorenson in November and December of 1970.

Mastantuono's delivery of the Cardon station wagon to the defendants, the one Mastantuono, you recall, lied about in the rogatories, perjured himself about in the Grand Jury and lied about until November of last year, and obviously you are going to hear much about that delivery from the defense counsel and especially Mr. Mastantuono's testimony about that. But that station wagon was delivered to Stassi and Sorenson and Consalvo and Alaimo and not Astuto, to the dead man or the missing man, and the government submits that Mastantuono's testimony before you is true in that respect and that he lied when he said he gave it to Astuto. It does not depend upon believing Mastantuono when he says "I'm telling the truth now and I was lying then," because in November, when he came up to change the rogatory that he

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had deliberately mixed up between the Uncle and the Uncle's 2 brother, he told Bocchichio then in November of 1974 that 3 the Cardon station wagon in which he had mixed up the Uncle's name, the Uncle's picture, he had also lied about who re-5 ceived it, that Tony Stassi received it, and he told 6 Bocchichio then that "I delivered it to a house you showed 7 me when we were looking around back in 1973, the one that 8 was black and white," Government Exhibit 86, Albert Pierro's-9 Albaduce's house. He testified that one of the people 10 that was there was a man "You had shown me long ago with 11 the tuxedo," and that man, as you recall, was identified 12 as Albert Pierro-Albaduce. Of course you know from the 13 evidence Albaduce was Malizia's partner and you also know 14 from Perna's testimony, and this is interesting, another 15 piece of treachery, that Albaduce had taken over Malizia's 16 business in 1971, the spring of 1971, because the Malizia 17 brothers had to go on the lam. 18

In June of19 71, Mastantuono testifies, that
"I delivered that station wagon at that house and that
guy was there." Pierro, Albaduce. That was in June of 1971,
after the Malizia brothers had gone on the lam, and when
Perna teamed up with Malizia in 1973 they talked about what
had gone on before and one of the things that Malizia told
him was that after they had gone on the lam and left the

business in Albaduce's control, Albaduce received shipments and never told them about them. One of those shipments, I suggest to you, was a Cardon station wagon that Albaduce received.

Now, I would also suggest to you that this June, 1971, load may very well be the Christmas load, the third load, that there was so much conversation about in 1971 that Perna and Verzino were told never came in, was always on its way, being rerouted but which never came in.

The next evidence that the government would contend is significant for you to consider is the murder plans that Perna and Joe Stassi had to kill Verzino, Verzino's girl-friend then and wife now, and Bubby Sorenson. Those murder plans go a long way to explain to you what was going on in 1971 and in 1972, why they would have been cut out of any load and why no one would trust them in Atlanta. The gravity of the dissention in Atlanta is shown by the fact that when Perna is about to leave he wants to, of course, get back into the business, so he talks with Joe Stassi and they decide to kill them all, Sorenson, Verzino and Verzino's wife, and then Perna is supposed to take over Bubby Sorenson's role. Perna was to kill Susie, Perna was to kill Bubby Sorenson and Joe Stassi's job was to kill Tony Verzino, to poison him with strychnine.

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when Perna comes home he finally has a discussion with Tony Stassi and Tony Stassi says he'll help him with Susie but not Bubby. All he would do there was stand aside in that meeting at the Casa Delmonte is the one that you recall where Joe Condella went to cover Mario Perna's back. He sat in the bar while Tony Stassi and Mario Perna talked in the dining room. Condella testified that when Perna returned after that meeting Perna told him that there would be no retaliation if Perna kills Sorenson. The power of the Stassis.

You know from Perna and Condello that they made the attempt to murder Sorenson and they testified how they sat by his house late at night with loaded guns waiting to gun him down. What possible motive would Perna have and Condello have to confess to that kind of conduct if it didn't happen; to admit planning to murder Susie Verzino, to admit planning to murder Tony Verzino, to admit planning to murder Bubby. Sorenson and trying to murder Bubby Sorenson? It is despicable conduct. You think he admitted that and told that because it was going to help him when he went before the judge? He knew that Condello was with him and he knew that Condello was cooperating because he had set him up. He couldn't deny that. He had done it with Condello, so he had to tell him.

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of all in this case is that what these witnesses testified to on the witness stand and what they said happened happened that way and they are telling you the truth about it and there is absolutely no rational way to explain how they could have told the government at the time they first told the government about what was happening here at the times they began cooperating unless it happened.

Mastantuono, you know, was arrested in October of 1971 and he began cooperating here in the United States in July or August of 1972. After he began cooperating Agent Bocchichio testified that he showed him a batch of pictures. They were not in the folder at that time that he showed him that batch of pictures. Out of that batch of pictures Mastantuono identified Tony Stassi's photo. He said "That is the man who was with Andreani when the Citroen was delivered."

Now, was there any suggestion to Mastantuono by Agent Bocchichio that "You got the right man?" Just the opposite. He takes the picture -- no. He goes on. * is not until January of 1973, approximately five, six months later that he is again interviewed and debriefed and he again picks up the photograph of Stassi and he says "That is the man. That is the man who was with Andreani. He

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at that time he picked it out of the defendant's exhibit over there, that large folder, large looseleaf folder of photographs. He not only picked out that one but at a later time he went through it again and picked out other photographs of Stassi. Look at those photographs of Stassi that he identified. They are in evidence.

It is after that that Mastantuono identifies Maribello's house as the house where he delivered the Citroen. What was happening then with respect to Verzino, Perna and Condello? Verzino was still in Atlanta trying to become, by the defense witnesses, the narcotics king of the United States. His general, Perna, at that time is out on the street. He is meeting with Tony Stassi at the Casa Delmonte and Brionies and the other diner in Brooklyn. They are negotiating for another load this time into Canado or for a pickup in Canada. Where was Joe Condello? He is dealing on the street, getting narcotics from Perna and Malizia. Then in November, 1974, better than a year later, Mastantuond is brought back from Eglin. He is brought back, as you recall, to straighten out that mix-up in the photographs, which he testified was deliberate, about the uncle and the uncle's involvement in the Cardon station wagon in June of 1971, and Bocchichio testified that it was at that time

when he told him that the uncle was involved in it, he lied about it. He lied to the French about it. He lied to the government about it. That car wasn't delivered to Astuto, it was delivered to Stassi and it is then, you recall, that he tells him Pierro was there. He didn't tell him the name. He told him the guy who he knows, Albert Pierro, and it was at that house which we now know was Albert Pierro's house, the black and white one. Pierro is an album. He is the only one in that album with a tuxedo. Do you think that was suggestive to him and that is why he picked out Albert Pierro? "Look for the guy with the tuxedo."

At that time there is no evidence whatsoever that Mastantuono knew, heard or or ever saw Perna, Condello or Verzino, none whatsoever. Yet in November of 1974 he is telling you that the June, 1971, transaction went to Stassi.

Remember, even at that time Verzino was saying that the Stassis aren't involved. He didn't say the Stassis were involved until March of 1975.

Mastantuono testified here why he had lied about the Cardon car, why he said it had gone to Astuto, why he had mixed up the uncle, why he had testified the way he did. He knew Astuto was dead or missing. He knew he could blame

that deal on Astuto so he lied to the French and he lied to the government and he lied to the Grand Jury and you have all his lies, you have all his statements, you have all of his perjury in evidence. You can go through that. You look through that.

But what corroborates Mastantuono was intent upon lying back in 1972, 1973 and 1974 about the Cardon car is Danielle Ouimet's testimony. You recall that she testified that during that period of time she and Mastantuono were putting their heads together as to how to keep Danielle Out, how to keep the government from catching Danielle. He was telling her and she was telling him what she was supposed to say. Do you recall what he kept telling her not to talk about?

"Don't talk about the Cardon car. Don't talk about the Cardon car."

And Danielle and Michel Mastantuono both testified that there came a time that Mastantuono told her "I got to tell the truth. You do the same," and now they both come in here and testify to what happened and Danielle testified that not only did she know there was heroin delivered in all those cars because she had actually helped load the heroin into the Cardon car, sewed it into the seats, and Mastantuono and Danielle never wanted to have to say that.

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So let's get the Cardon car out of the way. Blame it on the dead man.

Then you know that in mid-February of this year he is shown Defendants' Exhibit U, which is the folder of photographs which is also in evidence, and you can look at that. At that time he identifies /laimo, Consalvo and Sorenson as the drivers of the Cadillacs who escorted the Citroen and, of course, you recall Agent Bocchichio testifying when he got to Tony Stassi's picture that that photograph -- he knew it was Tony Stassi.

He also told him that it was in the garage in New Jersey; that they were in the garage in New Jersey along with the guy in the tuxedo.

At that time, mid-February, there is no evidence whatsoever that Michel Mastantuono knew, heard of or ever saw Perna, Verzino or Condello. It is not until Perna is placed in jail in Bergen County, and this is on February 28, that Mastantuonto testifies that he saw him. What did he say he saw him do? You know at this time Perna is co-operating and Mastantuono testifies "I saw him making a key, making a key to escape."

They were scheming, and obviously it was too late for them to scheme anyway, because Mastantuono has already said everything and so has Perna -- if they were scheming,

don't you think the one thing Perna would have told him would be "Don't tell them I was making a key to escape, don't tell them that?" The only thing that is in evidence is Mastantuono saying "I saw him making a key to try to escape." He didn't know his name. There is nothing about whether they ever talked. He didn't know Verzino's name and didn't know Condello's name. I showed him photographs and the only one he could pick out was Perna making the key. So before Mastantuono knew any other witness in this case, had ever seen or heard of him, he was telling the story he told on the witness stand.

What possible motive could Mastantuono have to identify these defendants? You've got all those photographs. You look through them. You think that the smear on the second photograph that he selected of Bubby Sorenson keyed him in? Or the fact that Tony Stassi's photograph was brownish in tint? He had already picked out Tony Stassi numerous times before.

Do you think that the fact that the first photograph he ever selected of Bubby Sorenson was a photocopy and not a real picture means he was keyed in? There were three photocopies in there, if you recall, one of Sorenson, one of Stassi, one of Coppatello. If the suggestiveness was the photocopy, was didn't he pick out Coppatello?

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look through that folder. He also picked out Alaimo and Consalvo. They aren't photocopies. These are regular photographs. What keyed him on them? Nothing. He recognized those people as the people he had delivered the Citroen to and the station wagon to.

operating with the government, telling the government about this smuggling operation, was Joseph Condello. He is arrested in October of 1973 by Agent Bradley. At that time he agrees to cooperate and over the next couple of months Bradley debriefs him as to what he knew about what was going on down in Atlanta and Bradley filed reports in which he summarized what Condello was telling him. Now portion of one of those reports is in evidence, the last one filed by Agent Bradley in April of 1974 and if I may, I would like to read you that portion of the report which was read into evidence.

While he is looking for that testimony or that portion of that report, you remember that there were other reports that Agent Bradley had filed and testified he had filed. You know if those reports didn't support Condello's testimony, weren't consistent with what he was saying here and what he said to Bridley back then these defendants would have put them in evidence in a minute. They put in all

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Mastantuono's prior statements in all the reports as to Mastantuono.

MR. NEWMAN: I object to that statement as to Condello and --

THE COURT. That is a question for the jury.

MR. NEWLAND: Here is the portion of the report which the government read into the record by Agent Bradley, a 1974 report:

"During 1970 Sorenson was released from the Atlanta penitentiary and associated himself with Anthony Stassi, the brother of Joseph Stassi, Sr. Through an agreement reached among the inmates, namely Perna, Stassi Sr., Stassi and Verzino, who were present, and Sorenson, Anthony Stassi and Susie, last name unknown, who were free, shipments of heroin were imported in the United States by this group and distributed in the New York City area. Stass Sr. was supposedly responsible for the establishment of the overseas connection with the heroin and Perna, Verzino, Sorenson and Anthony Stassi were responsible for providing the outlets. However, during the incarceration Verzino worked in the library with Jean Nebbia and Condello stated that Verzino had arranged with Nebbia for the delivery of heroin from France to anknown individuals in New York City."

You recall the testimony of how the situation

with Nebbia came about. Agent Bradley testified that when Condello began cooperating he said that the connection was a Frenchman in Atlanta named Jean Claude and Bradley testified that after he learned that he called a fellow agent down in Atlanta and said "Is there a Frenchman in Atlanta capable of running an importation scheme like this by the name of Jean Claude?"

The agent reported back to him Nebbia. Condello didn't know his last name and when Condello testified here and that was brought out on redirect, I showed him a picture of Otvos and he identified Otvos as the man that he recalled was the man who set up the connection that was running the operation, the Frenchman, not Nebbia, Otvos. That is what Condello was telling Agent Bradley back in 1973 before Perna and Verzino were arrested, what he testified to here.

The only thing that defense counsel showed were not in those reports were Joseph Condello's farewell with Joseph Stassi and in the sewing room when he told him "You want to make good money, Tony Stassi will contact you and you can go in the narcotics business."

And it was the testimony of Condello that he was in the bleachers with Kapatos, Grillo and Joe Stassi and he overheard them saying -- Katapos was complaining that Perna had not sent in the strychnine to kill Verzino, which

he was supposed to send on to Stassi. Perna didn't testify that Kapatos was involved. He didn't know it. Condello, after Perna left sitting on the bleachers and Kapatos was complaining that Mario Perna hasn't sent in the strychnine, then Joe Stassi said "Well, maybe it is for the best because Susie knows our business and if we kill Verzino she will spill her guts."

You remember that was one of the considerations
that Perna and Joseph Stassi had talked about: "You got to
kill" -- you remember they were saying "Should we kill
Verzino first or should we kill Susie Verzino first?" They
discussed that. Perna was supposed to kill Susie first and
then they were supposed to kill Tony Verzino, or maybe it
was the other way around, he was supposed to kill Tony Verzino
and then Perna was to kill Susie Verzino. Check the record
on that if you have any question about it.

in those reports of Bradley that he was filing. First of all, Judge Knapp read those reports and he told you that that is not the kind of conversation that would be put in those kinds of reports. More properly, that conversation by itself is meaningless. What Joseph Condello testified is what he knew about this poisoning of Verzino, which was meaningless until you had Perna's testimony. Perna's

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2	estimony had why Verzino was supposed to be killed, why
3	Sorenson was supposed to be killed. Joe Condello didn't
4	testify about that. All he testified was that he heard
5	that conversation about the poison. He didn't know why
6	Verzino was to be killed. But if Condello was scheming or
7	out to frame Joe Stassi would he say that Kapatos is the
8	one who is complaining that the poison hasn't been sent in?
9	Why not say Joe Stassi? He is saying Kapatos is complaining
10	not Joe Stassi. Joe Stassi is saying "Maybe it is for the
11	best." If he was out to get Joe Stassi or anybody else he
12	would have testified Joe Stassi said it, not Kapatos. That
13	testimony is why Joe Stassi, when he took the stand, testified
14	that he never talked or walked with Joe Condello. I have
15	gone through Grillo's and Kapatos' testimony and how the
16	threesome, who had never seen each other this way, are all
17	friends this way but not this way. They forgot one witness
18	and that was Thomas Callahan. He was the guy, you recall,
19	that the fied here that was involved in the attempt to rob
20	the bank truck with Tommy Kapatos. When I asked him on
21	cross-examination about the association
22	MR. GARLAND: I believe that is an incorrect

MR. GARLAND: I believe that is an incorrect statement of the testimony, if you refer to the record.

THE COURT: You can refer to the record and

correct that.

 MR. NESLAND: He testified that he saw Perna and Condello walking in the yard talking with Joe Stassi. He testified about Perna, Condello and Joe Stassi.

Is there any motive shown in this case why

Condello would want to frame Joe Stassi or Tony Stassi or

Bubby Sorenson? Obviously there is a motive to testify for

the government because the United States Attorney's office

in Newark has agreed to dismiss and has sent it to Washington—

to dismiss all the federal cases against Joey Condello.

Now, do you think that Joey Condello is going to risk everything and come in here and frame somebody when if he doesn't it is all over for Joey Condello?

I want you, as you try to recall the testimony of the government witnesses, to try to remember a few weeks back when they were on the stand and as you listened to Joe Condello and as you listened to Mario Perna and as you listened to Tony Verzino and as you listened to Michel Mastantuono try to recall whether or not as you were sitting there you said to yourselves: These men are bad men but they are telling it the way it is. They are telling the truth.

when you think of Joe Condello recall whether or not he was testifying on direct or cross-examination and whether he was jumping out and trying to answer questions, trying to dump a little more on these defendants. He wasn't

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doing that. He was asked by Mr. Naden on cross-examination: Did you ever get any drugs from Bubby Sorenson?

"A Two pills."

Why didn't he say a thousand pills, 10,000 pills like he was getting from Mario Perna? It didn't happen. He got two pills.

And when Mr. Kadish was cross-examining him: "Did you ever talk to Tony Stassi? Did you ever meet Tony Stassi?

"A No. The only time I saw him was twice in prison when I saw him, once outside and once coming down the corridor and at the Casa Delmonte."

He never met him. He never talked to him, bcause it didn't happen.

The only evidence in this case that Condello ever talked with Perna -- there is no evidence that he ever talked with Verzino or Mastantuono, no evidence about that, but the only evidence that he ever talked to Perna was while he was cooperating with the government setting Perna up.

I don't think defense counsel are going to argue during that period of time when he was trying to make a buy he did succeed in making a buy of 8 kilograms of heroin from Mario Perna, that they were scheming then to frame the Stassis. I mean, you can see that. Mario and Joey are talking and

Joey says, "Well, look, Mario, I'll set you up with 8 kilos. You'll face 90 years. Then we'll get rid of that beef and you come in here and I will back you up and we'll frame the Stassis and I'll get you off."

You know that never happened. Yet you know from Condello's testimony about what was going on at that period of time with Perna -- you know from Agent Bradley what was going on with Perna during the time they were setting Perna up that Perna was talking about the thing in Atlanta and he was talking about Joe Stassi, Tony Stassi and Bubby Sorenson.

For example, in November, 1973, when Bradley and Condello met with Perna at Romolo's tavern, Condello asks Perna about the shipment Sorenson is expecting, obviously the one Perna testified he and Malizia had arranged with Stassi to pick up in Canada. Perna told him, then, long before Perna's arrest, while Condello is sittin there that Joe Stassi, the old man, cooled it off; that Bubby and Tony wasted the money in order to buy the shipment.

Then you have in December of 1973 Bradley and Condello again meeting with Perna at the Fort Lee diner there Bradley, not Condello but Bradley asks Perna "You still hooked up with the old man since Bubby wasn't getting goods?" And you know that at that time Bradley had already been

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introduced to Sorenson and had learned that Sorenson was still expecting a load and had not heard from Tony Stassi. He said that Tony Stassi had been down to see his brother in prison and he had not heard that. When Bradley asks him if he was hooked up with the old man, since Sorenson wasn't getting any goods, what does Perna say?

"No, that deal has fallen through." He said that Malizia had arranged with Tony Stassi to get goods which they had to pick up in Canada but it never came off. They had to front \$25,000 a kilo but it never came off. That is the same thing that Perna testified about here, the same thing that Condello testified about that he kew, and at that time, that conversation, you recall that Perna also told Bradley and Condello at the Fort Lee diner how lucky Sorenson had been. He had been the first one out of the jail and he had made about \$400,000 delivering packages to the customers. Now, that is the time when Perna is out on the street being set up and he is telling the government that long before there is any possible motive for him to try to work off a case, and you have the tape recorded conversation in evidence, Government Exhibit 5-A, in which Perna and Condello again discuss Joe Stassi, Tony Stassi and Bubby.

Now, if none of that is true, if what Condello
and Perna were talking about never happened, what was Condello

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and Perna talking about when Condello was set	ting Perna up?
How stupid could Perna be to talk about thing	s when he
is getting set up that he knows nothing about	.?

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Condello asked him about Joe Stassi. Did he say, "What are you talking about?"

Perna is talking about the same thing he is talking about now. Don't you think Perna would have said, "Joey, what are you talking about?" What is this nonsense? What are you talking about?"

No. He was telling him, "I am not with The Old Man any more; that deal fell through. Bubby Sorenson made \$400,000." That is what Perna is saying.

So that brings me to Perna. He began telling the Government about this case in October of 1974. You heard Agent Bradley testify to what Perna told him during the interviews in October of '74 after he had been arrested, after the escape from West Street. You recall Agent Bradley's testimony. It is basically the same as what Mr. Perna testified to in this case only five, six weeks ago.

Now, you know that the only time the evidence is that Perna had seen Verzino before his escape in September of 1974 in West Street was over at the State Court, the two meetings they had on the charges that were pending against them. There was a lot of cross-examination about these meetings, who was there, what they discussed.

You won't hear defense counsel argue that they were at that

a month before Perna escaped, Verzino began cooperating, and at that time he gave that statement in which he omitted the Stassis. If they were scheming, they certainly mixed up their stories before Perna ever escaped and Verzino started cooperating. It is also absurd to think they were scheming while Ernie Malizia was in the State Cour, while Ernie Malizia is over in West Street with Perna, and you will recall that Ernie Malizia escaped with Perna from West Street.

After Perna was arrested after his escape he told Bradley about the scheme, and you recall the one thing he mentioned, he said that the loads came in in September or October of 1971, and November and December of 1971. You recall how that happened, because he believed at that time Mr. Sorenson had been released in March of 1971. If you just change the date, the actual date when Mr. Sorenson was released to March, 1970, can you get September 1970, October 1970, November and December, 1970, the same dates he was testifying to here on direct examination.

Now, the only evidence that Perna had any motive to sink The Old Man, Joe Stassi, put him in the case, is from the two witnesses that the defense called that

escaped. There was Nelson Garcia. You remember he was the one framed by the Government. And then there was Albert Barker. They testified that he was going to put Old Man Stassi in the case. Well, first of all, do you think that Mario Perna isn't smart enough to know you don't blab your mouth off in West Street? Do you know what would happen to a prisoner like Mario Perna or anybody else sitting over there in West Street amongst all the other prisoners saying, "I am going to cooperate and I am going to frame people?"

Do you think Mario Perna would do that? You also know that even before he was arrested he had already talked about the Stassis, already talked about these shipments. That leaves Verzino.

Now, he was obviously the last to tell the

Government was actually happened in this case. Then he
began cooperating in 1974, August of 1974, he told the
Government that the Stassis were not involved. His statement at that time is in evidence. You can read it.

You compare it to all the evidence in the case and you
determine whether or not you conclude that that is a lie.

It is not only contrary to all the evidence, it is also
contrary to letters he rote Suzie Verzino. Verzino's

lie there tell you one very important thing, and that is what those witnesses said that Mr. Sassi called to testify, that Anthony Verzino was out to get Joe Stassi, out to get that bastard, out to get that SOB because of this homosexual incident, simply is not true. If Verzino had a hostility for Joe Stassi, this framing hostility, why after he was released did he continue to go over and see Joe Stassi's wife?

Why did he take Lou Ann Stassi up to visit

Mr. Stassi's lawyer in Connecticut, this guy with such a

blazing hostility? Why if Verzin is out to het that old

bastard, number one on the list in Lacaze's words, why

didn't he tell the District Attorney's office that

"The 26 pounds of heroin I was caught with came from

Joe Stassi?"

You remember they asked. No, never got it from Joe Stassi; will take a lie detector test on it. Out to get him?

Then in August of 1974 when he talked to

Korniloff and Korniloff asks him about the Atlanta conspiracy,

if he were out to get Joe Stassi why didn't he say, "Yes,

Stassi was in it?" Because he was not out to get Joe

Stassi. He was his friend. And if you look at his

addeess book that was seized from him on his arrest, why

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would he have all those numbers in there of Joe Stassi?

Why? Why would he have Irving Franklin, Jce Stassi's lawyer's number in there? Why in 1974 would he have those telephone numbers if he had this tremendous hostility for Joe Stassi a year before.

There was a lot of testimony about that
homosexual incident in the library. You have to determine whether or not that happened and whether or not

Verzino is lying to you about that. You also have to
determine what his motive is for lying about that, if you
believe he is lying? Is it because of personal
embarrassment? Because of being a homosexual? Or is
he lying about it to protect his tremendous hostility,
to not expose to you that he has some kind of hostility for
Joe Stassi.

He doesn't have any hostility. If he had a hostility for Joe Stassi he would have framed him and named him a long, long time ago, when he first told the story.

You recall Agent Korniloff testifying in March of this year Agent Korniloff and I had questioned Verzino and asked him if he knew about the contract to kill Suzie Verzino and Bubby Sorenson?

Agent Korniloff testified that within twenty

minutes Verzino told his story, the testimony that he gave here. You heard Agent Korniloff testify as to what he said then, that Joseph Stassi made the connection, that Joseph Stassi got Tony Stassi, and then there was Bubby. You recall Korniloff's testimony. That was twenty minutes after we had told him about the contracts. He had not talked to anybody, not seen anybody, and in twenty minutes he is telling what he testified to from the stand.

How could he possibly have done that if it was not what happened. It is that testimony that he gave in March and that he gave here that is consistent with the evidence, not the August 1974 statement. Then the only evidence as to Verzino seeing Perna is that June 1975 letter that is in evidence. You read it to see if you are not convinced that that is the first communication that Verzino and Perna were having, June of 1965. Read that letter. If they were scheming do you think Perna would write that letter? And if they were scheming do you think Verzino would turn it over to an Assistant United States Attorney?

There is no evidence whatsoever, ladies and gentlemen, that any Government witness in this case schemed with any other Government witness to put this case together. They are here as bad as they are to tell you what happened.

They are here obviously to help themselves, but I submit to you they are here in good faith to tell you the truth in the hope that it will help them.

Now it is defense counsel's opportunity to argue what they contend, what the defendants contend the evidence shows in this case and why they contend the Government's witnesses are all liars. You listen to their arguments. Then I will have an opportunity to rebut those arguments. Listen and see if they answer the arguments in this case, especially the argument where is the evidence that any of these witnesses schemed or could scheme to make this case up.

Thank you.

THE COURT: I will see Mr. Newman at the side

(A discussion at the side bar off the record.)

THE COURT: Ladies and gentlemen, we will recess for lunch.

Could I prevail upon you to come in at ten minutes of two, so we won't run into a traffic snarl. It is now ten minutes of one.

(Luncheon recess.)

CLERK'S

UNITED STATES OF AMERICA

JOSEPH STASSI, et al. ROOM 803 FOR HLING

New York, November 20, 1975; 9.30 o'clock a. m.

(Trial resumed.)

(In the robing room.)

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not so much involved in this since he has already summed up. I realize I unduly restricted the prosecutor in what I said on the possible fear of defense witnesses. On the record before me I think there is evidence on which such an argument can be made. However, whether or not he was improperly restricted in his direct is beside the point. It is not open to him now unless the question is presented on defense summation. However, if the defendants argue, as they well might, that defense witnesses have to be credited with a great deal of courage in coming here and saying this in the face of Mr. Nesland's well known power to prosecute for perjury, I will say on the record on the evidence before me if believed if I were in the position

of one of the defense witnesses and Mr. Stassi had told me he thought it was a good idea that I testify, I would much prefer to run the risk of Mr. Nesland's wrath than I would Mr. Stassi's.

I think if you make the argument that they should consider the bravery of your witnesses saying these things, I would not say it is not true, but I will permit him if he wants to make a counter-statement.

MR. GARLAND: I'm not sure exactly what you are saying. Are you saying that if I argue that the witnesses I brought had nothing to gain, like the Government witnesses have everything to gain, that the witnesses that I brought here had nothing to gain by testifying, that, in fact, some of them were on parole and had to worry about parole violations --

THE COURT: You can argue what they have to worry about and I will permit him to argue what they would have to worry about if they didn't testify. I told him he could not at first and I may have restricted him.

But that is beside the point.

MR. GARLAND: It may end up with me arguing and Mr. Nesland coming back.

THE COURT: I didn't want you to argue it in the confidence that I had hobbled him.

MR. GARLAND: I think he can speculate about that and I will argue what I will.

(A recess was taken and thereafter proceedings continued in the courtroom with the jury present.)

THE COURT: You may proceed.

MR. KADISH: Judge Knapp, staff, fellow defense counsel, prosecutors, ladies and gentlemen of the jury:

It is now my time to address you in this case.

I will try to make it as short as I can, but I am not going to make any promises because there are a lot of areas that I feel in good conscience to my client and to my profession that I must cover with you this morning, and that is just the way it has to be. So I ask you for your indulgence and I ask you for your patience in these last few hours of this trial. Everybody has thanked you for your patience and for your attentiveness. Of course, I join them in that.

The evidence in this case has been fairly complex and it has come from approximately 20 some-odd Government witnesses and from approximately the same number of defense witnesses. You have heard closing arguments by Mr. Nesland, by Mr. Naden and Mr. Newman, and all of them have just briefly touched on your role as jurors and

just how important it is in our system of criminal justice.

I would like to just dwell on that for a few more minutes.

anniversary of this great country that we have. And over the 200 years that have passed since its inception there have been a great many changes in our institutions and in our Constitution of the United States. But one institution that has never changed, because it probably is the bulwark of our system, because what it does is to protect each and every one of you from false accusation, is the system of our jury, 12 good women or men who sit in judgment of one of their peers in matters that are of utmost importance in the lives of those who sit before you, all of the defendants.

man, Mr. Anthony Stassi, my client in this case. I want you to consider his case separatly and apart from the others and on its own merits. I don't know if you have ever given this much thought in the five weeks that you have been sitting here since October 13, which, coincidentally, was Columbus Day, another pretty important anniversary in the history of this country, but you as a jury of 12 in the entire history of the United States, this whole 200 years, you are a unique group in our history. I will tell

you why.

You only get together one time and only one time. This particular group of 12 people, each of you, will only gather together one time no matter how long this country goes on, and so your role is exceedingly unique and critical, because God forbid, if you make a mistake in your deliberations, if you make a mistake in that room, there is no way to correct it, no way. We can't bring you back and say, "There has been an error; there has been a mistake," because you are the finders of fact; you are unique.

when you leave the box and go back into that room and close the door and begin to delibe rate on the facts of this case, that is it. The significance of that should not be underrated by any of you. It may well be for some the very first time that you will deliberate, for others it may be the second or third; for those of you who have done it before, I am sure you realize the crucial nature of those deliberations.

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In a court in England, and it is the oldest Courthouse in that country, and our system of justice to some extent derives from the English system, I am going to tell you of the inscription that appears on that Courthouse because I think it is the premise from which I must make my argument in this case. It says, and I am going to read it to you because I can't remember it, it is a little bit lengthy and I don't want to misquote it:

"In this hallowed place of justice the Crown never loses because when the liberty of an Englishman is preserved against false witnesses the Crown wins." Remember those last three words, "the Crown

wins."

Now, in this case, although Mr. Nesland and Mr. Sear have as their job as prosecutors to bring the Government's evidence before you, if you find that evidence to be false, if you find that evidence to be incredible, if you find that evidence not to be trustworthy and you acquit my client, the Crown wins, the United States of America wins. It doesn't lose because of a verdict of acquittal. That is a very crucial idea and philosophy which I would like all of you to hold when you go back into the deliberation room.

Now, the Judge gives us the law. His word

C32 on the law is final and you should follow his instructions closely and listen to them with the greatest of care. You are the arbiter of the facts. The Judge will not comment to you in any detail about the facts in this case. You will have a difficult burden of remembering five weeks of an arduous trial with 40 witnesses, lawyers jumping up and down, lawyers quarreling with one another, people running to the side bar, with all of you sitting there wondering what is going on, and the interpreter, who had to have discussions with the witness in French, the Judge getting aggravated with the lawyers, the lawyers having words with the Judge, and then everybody apologizing.

There was a lot of attention, a lot of conflict that you observed in the last five weeks here. That all have to be put aside when you go into your deliberation room. You must just set your mind to the task of evaluating the evidence as it has finally come to rest in this case.

one of the main things that the Judge will tell you about and something which Mr. Nesland pointed out to only a limited degree, I say, because he is the prosecutor, is the concept of reasonable doubt. That concept is the one on which every criminal case tried in the United States of America pivots, two words, reasonable doubt. Those words are the most important words to a defendant who is

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brought into court on an indictment.

Mow, the Judge will tell you about the indictment. He will tell you that it is nothing but a charge.

It is not evidence. Here it is. You have it in the courtroom. It is the charges in this case, noth ing more than that. That indictment doesn't change any of the burdens of proof in the case, doesn't change the concept of reasonable doubt. It only means that it is a device whereby the defendants are brought by this man, who represents the United States Government, into this courtroom for trial before you.

Reasonable doubt. Let's talk about that

for a little while. The Judge will tell you that one of

the concepts involved in reasonable doubt is that it is

a doubt such as would cause you to hesitate to act in

matters of importance in your daily lives. That sentence

is crucial. What does that mean, a doubt that would

cause you to hesitate to act in a matter of importance in

your daily lives?

Now, if you go home over the weekend and you want to go to a movie you don't say to your wife "Well, let's pick a movie and decide beyond a reasonable doubt which movie we are going to go to."

That is not really a critical matter. It might

seem fairly important at the time. You don't want to go
to a lousy movie, but you make a decision with considerable
ease and you probably don't reflect too much on it, except
maybe if the movie turns out to be lousy you say, "We should
have gone to see another one."

But reasonable doubt goes to the decisions that are so important in your daily lives that you pause and reflect. They are the kind of decisions that keep you up at night. They are the kind of decisions that give you headaches. They are the kind of decisions that make you anxious, that upsettle. They are the kind of decisions that cause you when you ultimately resolve them to say, "Whew I'r it peace with myself. I'm comfortable."

Let me give you an example. A person is confronted with a serious illness, cancer, and the doctor says: Patient, I hate to tell you this but I believe I must amputate a limb. Now, that is the kind of decision where although you never use the words in your thought processes, that is the type of decision that we are talking about when we say reasonable doubt. That is a decision on which you would hesitate to act unless you had dispelled all reasonable doubt as to whether you were going to consent to that serious type of operation, and after reflecting on that you might go back to your doctor and

say: Doctor, I want a second opinion. I'm not sure, and you'll look for a second opinion and you'll digest what the first doctor said and you will digest what the second doctor said and you will go home and up to your room and you will say: What am I going to do? Do I have any doubt but what I have to do? And you'll make a decision and you will giveit to that doctor, whatever that decision is. Hopefully it will be a decision that you are comfortable with, a decision you can be in peach with, a decision you can live with for the rest of your life. That is the decision that we are talking about in a criminal case than a decision which you must make about Anthony Stassi.

There is a second crucial concept, the concept of presumption of innocence. Now, what does that mean? That means -- if I had a blackboard here I could show you. I don't. We had one in the other courtroom. I ask you to remember that blackboard. When that blackboard was erased, when it was completely erased, it is what is called in the vernacular a clean slate. That is how Anthony Stassi and every other defendant come into the courtroom. They come in with a totally clean slate. They come into the courtroom innocent. They are innocent until proven guilty beyond a reasonable doubt.

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Now, that burden, that burden that these two gentlemen have, Mr. Nesland and Mr. Sear, is a very, very heavy burden. I mean, it bends you to the ground, that burden. It is not like drinking a glass of water, not like that at all. It is a burden hich is heavy and the burden stays here at table one. Remember that, right here and right here. The burden never, never, not even today, the burden never moves to table two, never. It doesn't even move to table two when you go back into the deliberation room. It never changes.

The defendants have to do nothing to convince you of their innocence. Now, in this case I presented evidence. That was my choice. But I didn't have to do a thing. I could have sat there, nothing. That is a defendant's constitutional right. The Judge has explained that to you to some degree in some preliminary charges that he has given. He will talk more about that in his charge, but that concept is one which I do not want you to forget when you deliberate, and when you deliberate you will have this -- I'm putting it very simply and perhaps you think it is too simple, but I don't. The case is either proven or it is not proven. It is proven or it is not proven. That is what your verdict has to be, proven or not proven.

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this case begin at the beginning, as a famous president of ours once said. The case is filled with reasonable doubt. Every witness inherently in the character of the man, and Mr. Nesland admitted that in the very first thing he said, every one of those witnesses inherent in his heart is a liar and filled with the qualities that cause any decent juror, any common sense thinking juror anywhere in the United States to say there has got to be a reasonable doubt in that.

How can we believe a Mario Perna? How can we believe a Joey Condello? How can we believe a Michel Mastantuono? Michel Mastantuono -- we had this terrible language problem. My entire cross-examination took place through an interpreter. You knew he understood everything I said. That was fairly obvious. When it was convenient for him to shake his head yes or say yes he did. When he wanted a minute to think of an answer to the question he would wait and let the interpreter interpret and then give an answer, which would let him have some time so he could think of a proper answer.

I submit to you that the only matter or the substance to be derived from that language barrier that

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existed between us is a conclusion on your part that that was the language of a liar. Michel Mastantuono, not to mince any words with you, because I don't think I could mince them and be candid in what I heard, is a bold-faced liar.

Now, you saw in my examination of the man and the examination of the other counsel that he squirmed and twisted, twisted and squirmed and twisted until there was no room to twist any more. Let me give you just one example of that and then I am going to move on to some other areas and then move back to Michel later.

That man started to paint himself into a corner in this very important defense theory in this case. That is when he appeared before the grand jury in April of 1973 and picked out a photograph of John Astuto as the man who has the recipient of the station wagon shipment in Jule of 1971. He said he did it primarily to defend Danielle Ouimet. I pressed him and he kept on going back further and further into the corner, further into the corner and he painted his way into the corner, all the way into the corner, but finally he said, "But at the end of my grand jury testimony, at the end of my testimony I said very clearly to the grand jury -- I was under oath -- Danielle Ouimet is not involved."

a bell when he said it and I knew I had him right in the corner. He was out of paints. He was out of brushes, He was out of everything. He was caught in a bold-faced lie because, as you know, the Court permitted me to represent to you that nowhere in any of that grand jury testimony did he say that Danielle Ouimet was not involved. He had run out of room. He had run out of lies. He was caught.

You see Perry Mason on the TV. That is not usually what happens in a courtroom. But I submit to you that what you saw with Michel Mastantuono was as close to that as it comes. The man was just caught. His basic theory evaporated. He ran out of paper. When we flipped through to the last page of the grand jury testimony, it wasn't there. What the man said wasn't there, and it was the keynote of his reasons for holding back, for not naming Anthony Stassi:

"I needed to protect Danielle." It was hokum.

Your common sense tells youthat that type of testimony just cannot be believed. It is just not trustworthy. It is not the kind of testimony that gets by the standard of reasonable doubt, that gets by the standard of the burden of proof. He didn't prove anything. And

on that. It is absurd, it is just absurd. You won't rely on it for anything. If you want to see a doctor like Michel Mastantuono about a problem that you had and you heard that kind of hokum, you wouldn't hesitate in asking for a second opinion, maybe a third, and maybe a fourth and maybe a fifth, but that man was just incredible.

I don't like at all to mimic actions of people, out the best we ever got out of Michel Mastantuono was "It's possible."

You remember he did it 500 times if he did it once, that same cavalier attitude. It was for the French, it was for the Americans. He had an answer for everything. It just doesn't sell. It doesn't wash.

Now, yesterday Mr. Nesland gave you a two and a half-hour closing statement and he made a number of points. I wish to go back over some of them with you just briefly.

You remember first he said none of these witnesses ever ratted before. I believe that was his word. But I want you to remember the testimony of Mario Perna about how he ratted on the priest. I want you to remember what he said about the feelings of remose -- none. Not only that, I don't think we ever

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got the true story about that. It wasn't clear after 2 his cross-examination how many times he lied in the Father John episode, and just when he was lying and when he was telling the truth, but he used the priest. He said that. 5

6 He used him.

> Number two, Condello. I remember very clearly from the transcript Mr. Condello stating, and I believe it was brought out by the Government, that he had given false information to the FBI about a case a long time ago. He had actually given false information to the FBI on the case hoping they would rely on it and hoping to get a deal, which he apparently gct.

Now, I ask you to remember what Mr. Nesland said and I ask you --

MR. NESLAND: I object to that last statement that he did it to get a deal. There is no evidence whatsoever that he did get a deal from that, from the false information.

THE COURT: It is the jury's recollection on that.

MR. KADISH: I will let you remember from the transcript. I understand Mr. Nesland wants to protect that point.

I remember Mr. Nesland stating that the

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Courier, Mr. Michel Mastantuono, was a high level courier.

I don't know what level he was on. He may have been high. I would agree with that. But he said, as I recall, that Michel Mastantuono never packed a car, but Michel Mastantuono said that when the heroin was taken from the Fiat and put into the station wagon that they packed it, he, Michelle Cardone, Jean Cardone and Daniell Cuimet. They packed the station wagon and that just doesn't square with what Mr. Nesland said.

MR. NESLAND: I said it in my summation.

I told them that he packed the car in Montreal.

THE COURT: The jury will remember.

MR. KADISH: Then as to visiting records,

Government Exhibits 60 and 62 I believe were discussed by
the Government, and Mr. Nesland made a very significant
point in his closing argument in an endeavor to get you
to draw an inference that Anthony Stassi over there visited
his brother Joe Stassi over here at the Atlanta Penitentiary
and that somehow it was worked out that he ended up there
with Sue Verzino on the same day, October 2 of 1970.

I can see that clearly. The visiting records show that. I have them right here in my hand. But what I want you to do, I want you to look at all the visiting records. Now, Suzie Verzino and Anthony Verzino

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were obviously very close during the period 1969 until Vaz got out of jail. You have all these letters. They are sort of like love letters interspersed with terms of endearment which show how close they are. I think it is quite normal for Sue Verzino to go to Atlanta and visit her husband or boy friend, whatever.

I submit to you that it is quite normal for this man to visit his brother. I am going to tell ou that you should look at this in your review and this is what you are going to find.

First of all, I recall Mr. Nesland making mention of a first visit in March of 1970. I wasn't sure whether he meant to imply that was the first time that Anthony Stassi visited Joseph Stassi on the visiting records or whether he meant to imply it was the first timehe visited, Anthony Stassi visited Joe Stassi in connection with the alleged conspiracy, but I would like you to know that Exhibit No. 60 clearly shows that in 1969 Anthony Stassi visited in June, in Jul', in August, in October and that is five, six, seven months before anybody claims any conspiracy began.

The first evidence of that is late 1969 or early 1970. So Anthony Stassi was visiting Joseph Stassi long before that, and I submit to you there were other

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reasons why they were visiting.

You heard testimony from Joseph Stassi that they were working on his appeal in his case with Tony Verzino, who is also helping, and you know from that testimony that not only did Anthony Stassi come to Atlanta but a lawyer named Buddy Frankel was with him on some of those occasions. If you look you will find out that in 1969, for example, Sue Verzino visited 15 times and Tony Stassi visited five times.

In 1970 they both visited about the same amount times, in the twenties. All right. You will find that on occasions in April of 1970 and in July of 1970 and in December of 1970 Buddy Frankel accompanied my client when he visited his brother.

You will find that there are approximately four occasions when Sue Verzino and Anthony Stassi were in the visiting room of the Atlanta Penitentiary at the same time, not one as Mr. Nesland described it, but four. We have no fear of that because over a period of 1969, 1970, 1971 and 1972 and part of 1973, a period of over 50 months, they just happened to be there on the same day on three or four different occasions.

Now, you will also find if you look at this, that there is no pattern whatsoever of the visitations.

Some days you will find Anthony Stassi will be there a day before Sue Verzino in a particular month or five days before or eight days before or ten days after or six days after. There is no rhyme or reason to it. There is nothing sinister about it and the proof of the pudding comes in 1974 and 1975, well after any allegations in this case about any kind of misconduct.

Anthony Stassi is still visiting his brother

13 times in 1974 and 1975; ll times in the first four

months, and that is when the records are. A mountain

out of a molehill at best. I don't know what he means.

I submit there is nothing particularly significant, just

some of the association evidence that has cluttered this

care and which Mr. Nesland and Mr. Sear hope will clutter

your minds.

The Judge will instruct you about association testimony and I think he is going to tell you you can review it for whatever purpose you want. You can throw it out.

(Continued on next page.)

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of the jury, and after you look at them as I have just suggested, turn them physically down on the table and say, "Well, we can forget about those exhibits." I suggest you can do the same about a lot of the association testimony in this case.

Take, for example, these agents who paraded on the stand and testified about surveillance of Anthony Stassi in 1973. What did you hear? You heard at some time in 1973, ab t seven or eight months after the date in which the indictment is supposed to have ended, for the indictment speaks of the conspiracy beginning on or about the 1st day of January, 1970, continuously up to and including the 30th day of December, 1972, the defendants allegedly did the following, after that period ended, after December, 1972, the government put on the stand agents to show some association. The agents came on and you heard that Anthony Stassi went to a Burger King with a 14-year old boy, you heard that Anthony Stassi was at a woman's house, allegedly his girlfriend, and that the boy is somehow connected with her, you heard that he went to a department store, you heard that he walked to a grocery store to buy cigarettes -- the government was like hounds; they were stalking this man. And he probably knew it. I doubt that they were even subtle

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about it. I submit that there is not one shread of evidence that you heard about all those surveillances that could raise in the mind of any of you at the time of those surveillances that he was doing anything that could be considered as criminal, even a traffic violation. If he had gone over the speed limit the agents would have noted it in his report, "Exceeded speed limit." I didn't even see that.

Then there is some association between him and Bubby Sorenson in the Sun City Motel some place in Florida. I submit to you you can't draw any inference from that whatsoever. None. There were other reasons than sinister reasons why people get together. And then there was that association with Sal Autera and Joseph Mirabella. Look at that association. Look at the evil pharmacist from Larchmont and New York, now in Florida. He has narcotics licenses in both states, or had one in New York, and he had licenses in Florida for 12 years. He had a pharmacy. He sold the pharmacy. The government tried to imply that the man has some sinister income. Well, the obvious inference from the testimony is he has sold his pharmacy, took it easy for one year, and then bought another pharmacy. There is no allegation of wrongdoing. He is not indicted. I don't think you saw any from that man. He .simply felt

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that Tony Stassi was a nice guy; he got friendly with him; he called him his uncle; they had dinner together.

Mr. Mirabella became a friend of Sal Autera's and he did not know Tony from a hole in the wall until he gets invited to go to a birthday party at Tony's apartment.

He coes there once. That is supposed to be material? I mean, what is coming on? You hear on the news everybody is watching englosely; the PBI is watching anybody; there are those stories about Martin Luther King --

THE COURT: Let's not go into that.

MR. KADISH: -- what is all this coming to.

As to Mirabella, I submit to you that Mr. Nesland's cross-examination of Mirabella was almost heart rendering, that man, a 23-year employee with the Telephone Company, an executive at the Telephone Company. Obviously, he was as credible as they come. Mr. Nesland badgered him, tried to pin him down on these telephone calls.

Now, it is quite clear why he could not be pinned down; it was because Sal when he would come to visit in New York, some time came here to get this problem straightened out with the New York City sales tax audit that he was undergoing, he would stay up there, visit up there, and he would call his friend, Tony Stassi, his wife, his mother-in-law, etc., in Florida, because the calls were free. Now, maybe

Mr. Mirabella should not have let Mr. Autera take advantage of the free phone calls that the Telephone Company provide; maybe that is in some degree something that he did not know was right. But that is about it. I don't think Mr. Mirabella was uncomfortable about that. And the reason he could not recall the phone calls is because he did not make them and they probably were not particularly significant, because for a number of years Sal Autera had made free phone calls from his house. What is sinister about that? Nothing.

This is more of this association testimony. You heard me get up and say, "Objection. Not relevant." Mr. Nesland would say, "We are going to connect it, your Honor." The court admitted it, etc. He is going to submit it for whatever value you put on it. I submit to you it is worthy of nothing, this association testimony.

Another thing. You remember in Mr. Nesland's description of the inception of this conspiracy in the Atlanta penitentiary he remarked about some onion skin paper that came from the Frenchman named Otvos, which ultimately supposedly ended up in the hands of Joe Stassi? Mr.Nesland, I submit to you, glossed over something that was very crucial. He said onion skin paper. Remember the testimony, Mirio Perna, two pieces of onion skin paper. He was sitting on the stand. He was sure there were two pieces of onion

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skin paper. One had a secret note from the Frenchman and the other the Frenchman's brother's address.

Anthony Verzino several weeks later, one piece of onion skin paper. I pressed him on cross-examination. Only one. That is all he remembered. Mr. Nesland did not gloss over it; he did not mention it. If these people were scheming they would both remember it. It is an argument that a prosecutor has to make, that they get together to do a frame job and can't remember all the details. That is one and that is crucial, because that goes to the inception of the conspiracy. And I don't have to prove anything. What it really is, is a failure of proof on Table 1, failure of proof.

Now, the same thing about the honor dormitory.

Mr. Nesland admitted that there was a discrepancy between

Perna and Verzino on the honor dormitory conversation.

Verzino said he tried to reach Bubby by letter, and there is

another instance that Mr. Nesland glossed over. Verzino mays

it was on the outside, not by letter. This is a frame job-
f-r-a-m-e. I am not afraid to say that. That is the name of

the game. I am not saying he participated in it; I am saying

they did. He is a zealous prosecutor; he does his job. The

problem is he ain't got nothing to work with that is any good.

His case is made up of nothing but stool pigeon testimony.

It is not worthy of belief.

Mr. Nesland offered : stipulation about the dates, and I did, too, the end of September. Mr. Nesland cross-examined Mirabella and Mastantuono, and he covered a lot of territory about when the Citroen got to Larchmont, New York, when it happened. Mr. Nesland's argument to you is that it was probab! Monday or Tuesday. I submit to you if you remember the testimony of Michel Mastan ono, who ought to know, because he was driving around for an hour in Manhattan with no traffic and no people, said it was Saturday. And that fits -- no traffic, no people. You remember that. Mr. Nesland glossed over it.

You remember Mr.Nesland also said, "I won't go into too much detail on this convoy," this convoy of cars with the Citroen transaction that left New York. Another gloss over. Do you know why? Because Michel Mastantuono is absolutely destroyed on that. Just think back to it.

Michel Mastantuono as he sat there on that witness stand had absolutely no idea of who was where and what was what. I will go into more detail on that at a later time, but I submit to you the reason Mr. Nesland went over that point is because his witness, Michel Mastantuono, is just utterly incredible on the convoy. It does not make any sense. Mr. Newman went into that in detail, too.

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The same thing about Michel Mastantuono lying before the Grand Jury. Mr. Nesland glossed over that. He glossed over whether or not it was ever cleared up on the record that he had lied in prior Grand Jury appearances. You remember that. He said, "Yes, I think I explained it; I am sure I told the Grand Jury somewhere in there that I had lied before." You remember my examination there. The court permitted me to make that examination. Nobody challenged it. It is not there. It is like when he said Danielle Ouimet was not involved. He didn't say he didn't lie to the Grand Jury. He did lie. He did lie to prior Grand Juries and he never told the next Grand Jury that he lied, and Mr. Nesland didn't tell that Grand Jury that he lied, either. This man was just sent in there; he fooled some people. Don't let him fool you, please; don't let him fool you.

Mr. Nesland quickly glosses over the number of kilos in this case. He tells you Michel Mastantuono was not the only courier. Well, what do the witnesses say? Mario Perna, September, 1970, October, 1970, the first shipment comes in, split in half, total, 120 kilos, 140 kilos. Next shipment December, 1970, same thing, split in half, another 140 kilos: June 27, next shipment, a lot more kilos. Anthony Verzino, September or October, the same thing as Perna, a little

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about November or December. It is pretty close. And again the June 27th shipment-- maybe three or four hundred kilos of heroin. Boy, doesn't that sound good to a govrnment agent.

MR. NESLAND: Objection. Mr. Verzino testified he didn't know anything about the June, '72, load.

THE COURT: The jury will remember. Nobody can remember all these details. The jury will remember, and if they want to hear the testimony, they can.

MR. KADISH: Thank you, your Honor.

How does that sound to a government agent?

What a case? 400 kilos of heroin. What a case. Mario Perna and Anthony Verzino, they are no slouches.

You remember Mr. Garland extracted from Mr.

Verzino, that if Verzino listened closely he was able to deduce what the agents wanted. A big case. It is good for the agents. It helps them. But in this case we only have evidence of kilos coming from Michel Mastantuono. And what is it: 40 in September and 70 in June. Where did the rest of it come from? Where are all the cars? Where is the evidence? Did the government bring it in, put it on the table? Have they satisfied their burden?

Now, the indictment talks about 40 and 70 kilos.

You see that. That is all it talks about. But the government

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has put it on the table through the testiony of these stool pigeons, Perna and Verzino, that there were 400 kilos, 360 to 400 kilos? Why? It is window dressing. Reject it; reject all this testimony, because where it is false in one part, it is false in all its parts. And we will see more of that as I get into more detail.

Now, another gloss over by Mr. Nesland in his closing argument was about Danielle Ouimet going to Plorida to see Mr. Felix. Do you remember that? He just passed over it. No word that she went to see the recipient. Instead, he argues to you it was another French intermediary like Andreani. But you remember Miss Ouimet's testimony on cross-examination. You remember when she was asked the question, "Wasn't he the recipient?" She says, "Yes." Now, she understood perfect English; I didn't have to use am interpreter; she is bilingual; she obviously knew the import of the question and answered, "Yes, he was the recipient." Mr. Nesland knew what the word meant, because in his closing argument he used that word, that is the way he used that word, and I used the word and Danielle used the word. But then there was a recess. Mr. Nesland went out the door with Danielle. They came back in. The next question was asked, "Was it the buyer?

"No."

I mean, really. She knew what Mr. Nesland wanted to hear. She had just pled guilty to an information; she had it hanging over her head. I am not saying it was in bad faith. He just asked the question. But she could tell, she could deduce from his attitude, from what happened in the courtroom, from the dynamics of what had happened, she knew she had given an answer that was not satisfactory to the government. So she changed it. But the truth is what came out first. That was the truth. She was told and she knew and she believed that the man she met in Miami was the recipient, was the buyer.

Mastantuono and his perjury. But another gloss over. His argument sounded good on its face, but you got to ferret into it. That is my job. I got to challenge him, trying to show you the reasonable doubts, the problems in his argument. He glossed over the perjury thing with Mastantuono. This is very serious, ladies and gentlemen, perjury; it is a terrible crime. You appear before a grand jury and you lie. Mr. Mastantuono on the stand was challenged by me. I asked him the question, "Well, what do you hope about it?" He is squirming. I didn't know what was wrong with him, but he could not seem to answer my question. He squirmed. I finally said, you

remember, "Well, you don't hope that you get indicted for perjury, do you?" I said that to him. And you smiled and he still didn't answer, and the judge leaned over and said, "His answer to that obviously is no." Obviously, it is no. He said it was hanging over his head; he knew about it, he understood it. But I never heard the government explain anything about it. Don't you want to know? Aren't you interested to know in this case what they intend to do about Mr. Mastantuono? No United States Attorney took the stand on that; nobody told you what they are going to do about that perjury, not once, not twice, but the many times the man committed perjury. It is incredible. Those are just some of the gloss overs. I won't take any more of your time nor go into more detail on that.

There was one other thing that is very important. We will spend some time with this. Duval. It is easy for Mr. Nesland to say and it is easy for Mr. Verzino to say that Duval is Anthony Stassi. That is easy to say. You remember the cross-examination of Verzino, that "There was a private code we worked out, we changed the names all the time. That went back to the dormitory. And my wife understood me and I understood her and she knew what I meant." He just squirmed all over about it. Let me show you what an analysis of the exhibits show. Mr. Nesland

had them yesterday; I had them today; you will take them.

It is interesting. First of all, 20, 21, 22 and 23 don't mention anything about Duval or the other cast of characters.

Number 24, "Tell Red I said all is a piece of cake." On examination Red was Red Marcone. You have heard that name all during this trial. Now, that ain't much of a code,

Red. He calls him by his proper nickname. There are a lot of nicknames in this case, and that is one of them. No code.

Anybody reading that letter would know it was Red Marcone.

In fact, one place he calls him Red Marcone.

The next letter, 25, all of a sudden Tommy is

Red Marcone. Now it is Tony. If you call him Red Marcone
in Exhibit 24, why all of a sudden does he have to use a

code name Tommy in 25, the next letter. It does not make
any sense. He also says Jimmy Julio is Red Marcone. The

same letter. The man who he said in the prior letter was

Red by nickname, he now says is Jimmy Julio and Tommy.

I submit it is made up. He says in this letter, 25, in

response to questions by Mr. Nesland the attorneys are

Bobby and Tony. Then he goes on to say in the next line
that the word lawyer means Joe Stassi. Who can understand.

I don't know of anyone that can understand that kind of
gibberish. It doesn't make any sense. Then he goes on

to say -- and this is the most incredible of all, "Your

brother," number 25, that "Your brother" equals Red
Marcone. So we have in 24 Red Marcone is Red Marcone,
but in 25 Red Marcone is Tommy, your brother, and Jimmy
Julio. I mean, it is just far out.

Then he goes on in number 27, he refers to "Your brother" as Red Marcone, refers to Tom again as Red Marcone; he says that Bob is Bubby; and then finally in letter number 3 says that "brother" is Bubby, whereas before in letter number 25 "Your brother" is Red Marcone."

Now, it takes a long time to make that analysis that I just gave to you. You can't remember what I just said; I can't remember what I just said; I had to read it. I submit to you that in this posture you can't remember it, I can't remember it, and I don't believe Susie Verzino can remember it, either. I submit the whole thing is hokum; it is hokum. Duval is not Tony Stassi; Duval is not Joe Stassi; Duval is some of these other people.

Take Government's Exhibit 15, look at that

August 15, 1974, debriefing of Anthony Verzino, the first

time he "cooperated" with the government. Look at the names

in there and you will find out who these people are who are

called Duval, etc. Just look at them: William Benvente,

Baxter, other names. Who knows who they are. But they are

not Stassi. The name Stassi is not in here; it is not in

here. And this is the first time Verzino allegedly cooperated. Remember Government's Exhibit 15, compare it to the Duval analysis and to the Duval exhibits which I just covered, and then you decide what to do with this code, what to do with the visitation records. I suggest to you that the only thing you can do is to reject them and say, "It is not credible evidence." Again I submit Table 1 has not proven these matters. Remember the burden of proof; remember the concept of reasonable doubt. Please.

Now, ladies and gentlemen, I would like to spend some time very briefly on Mario Perna. What did you hear from that man? You heard about all these meetings that took place in a place called the Casa Delmonte. It is not hard to find; it was up the street from where Mr. Anthony Stassi lived, a logical place to go. You hear about all these meetings between Mario Perna and Anthony Stassi.

One time Joe Condello is present. He does not say anything to Stassi. Another time Ernie Malizia is there. Another time Bubby Sorenson is there. And just look at all the conversations; never about receiving any heroin, never about transferring any money or getting the merchandise, or where it is to be picked up. It is all couched in these terms, every single meeting is couched like this, "Well, the shipment is coming in in six months from now"; "There may be a

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shipment three months from now"; "We are expecting something soon"; "We don't have anything now." It is vague.

I think one of the jurors today was delayed by fog from Newburgh. When I woke up this morning I could not see out the window. That is what I submit this is; the fog rolls in. That is what the Casa Delmonte stuff is about; it the fog rolling in, names of people, make sure look around corners, afraid to bump into things. That is what the Casa Delmonte meetings ae all about. And to show you how absolutely phony it is, remember the business of Ernie Malizia. This is absolutely incredible. Perna would have you believe -- and the fog, remember, is starting to roll in again -- Perna would have you believe that Ernie Malizia walks into the Casa Delmonte with Perna and Anthony Stassi says, "Get out of here, Ernie, you are hot, you are a fugitive, I don't want you here," and Ernie Malizia leaves. The fog rolls out. Next meeting, Brione's Restaurant. The fog rolls in here. They are in the restaurant only a couple of weeks later and Ernie Malizia walks in again with Perna and they sit down and they have dinner and to Anthony Stassi, who was allegedly scared to death of being with this fugitive just two weeks before, does not do anything in a crowded restaurant. It is absurd. Think that through. It could not happen. And then the fog rolls

out for a couple of weeks. Then they are at a diner in Brooklyn, Perna at a diner in Brooklyn? The fog rolls in.

"Mr. Perna, what is the name of the diner?

"A I don't know.

"Well, did you ever go around looking for it with the agents?

"No."

Well, you remember these agents. They only look
when they want to look. You remember Mr. Mirabella, this
man from the Telephone Company, who I submit to you is as
honest as they come, a basically honest, decent human being.
Did they give that man the time of day? Mr. Nesland just
badgered him on the witness stand. Did he give him the
time of day? Did he permit him to make some reasonable
explanations? Did he permit him to go talk to Sal Autera
and find out what the phone calls were about? No. And Mr.
Nesland had him in his office in May of 1975 and didn't
go through the toll records with him.

And Mr. Bocchichio said, "Well, we never went up to that house. I mean, why go to that house? He lives near Sal Autera, the pharmacist, Uncle Tony's friend, the evil pharmacist. Obviously, we made our case; we won it; we got it.

"Remember the Collins house?

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"Oh, we went to that house. We could not find any connection with Stassi. We went up there, we found there was no connection with Stassi."

They went to the Collins house, but they didn't go to Mirabella's. I submit, ladies and gentlemen, Agent Bocchichio did not do an investigation the way it should have been done. It is not the way to exercise your sense of duty to the community that you serve. I submit that you ought to think about it.

The fog rolls in on the Brooklyn diner. Again Ernie Malizia walks in the presence of Anthony Stassi in a crowded diner. Perna admitted it was crowded, all kinds of people around, and again Stassi does not say anything, he does not chase him out.

Reject it, ladies and gentlemen of the jury; reject that testimony; it is not worthy of belief. Think about it in the cortext of the rest of Perna's lies; think about it.

Mario Perna said up on the witness chair right
here and told you he lied to his wife, lied to his girlfriend,
lied to his probation officer. There was nobody the man did
not lie to. Oh, yes, there was one person he forgot to tell
you about that he lied to. You know who that is before
I say it to you -- Jimmy Nesland. He forgot to tell you

way that a man can get indicted for perjury is if these people at Table 1 do it. That is a better position to be in, at that table.

I want to move away from Perna. I think you will hear more about it later from one of my co-counsel. Let's talk about Condello and the Casa Delmonte. You remember Condello coming in here, part of the frame, keeps his ears open, listens, listening to what the agents are saying, deducing what they want to hear, a man who has tried to get deals before. Can you imagine this creep, for lack of a better word, this guy sits up here, he has been in trouble his entire life, he told you right in the transport, you recall, that his life was one of continuous crime, a continuous lie -- that is all this guy is, nothing more, nothing. So he keeps his ears open and he says, "I got to plug in on the Casa Delmonte meeting that Perna is talking about." But they mess up. Mario Perna says September, 1972.

Mr. Condello, well, he is never good on dates.

You remember how many times I asked him about dates?

"Can you remember the date?

"I don't recall."

That is a pretty safe way to be. If you don't

recall dates, your lawyer can't tie you in. So he is cagey; he has been through this before; he knows what to do. But I press him.

"Was it hot? Was it cold?

"It was very cold; I had to wear my overcoat."

Very cold in September, 1972? It doesn't fit.

The fog rolls in again. Just think about it. It just doesn't fit, and I won't spend any more time on that.

The witness that most interests me, as you can tell from the cross-examination, is Michel Mastantuono.

And, by the way, you may have wondered why I introduced this license. You really never saw it. I hold it up to you.

It is the license of Anthony Stassi, New York State driver's license 223 West 72nd Street, New York, New York. Maybe some of you have already figured out its significance. You will see over here on the side of the license different spots, lines. One says: Corrective lenses; another says Mearing device; another, prosthetic device, and so on. The first one, though, is corrective lenses.

Now, as I look through the jury here I see three people wearing glasses. I have noticed in the trial that you wear them most of the time, and I think that your licenses have marked on them corrective lenses if they are needed for distance. Now, you know from your common everyday experience

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that nobody in New York State can get one of these things unless he takes an eye test. You got to take one; you got to be certified that you are okay. It is the law in this state. By the way, we have a copy of this license in evidence, and Mr. Stassi has this so he can drive his car. We have a copy of it for your convenience. I want you to see the real thing here and you can look at the copy, and you will see no mark next to "corrective lenses," and the reason is critical to the defense, because Anthony Stassi -- see him in his chair now -- does not need glasses to see me; he does not need them to drive a car; he does not need them to walk around; he needs them to do one thing, and that is all he needs them for, and that is when I ask him to read his license to show that it says no corre te lenses, or to read anything. But Michel Mastantuono told you that the man wore glasses in the garage. Remember that. The man wore glasses in the garage.

asking all these questions, though he is a pretty clever fellow, but I don't think he got the gist of my questions, "Was he reading anything?" And he said, "No." Obviously, whoever was in the garage, wherever it was, was not reading anything, did not need reading glasses. A fatal error by Michel Mastantuono. And I submit to you it is wrong to

give that man the slightest shred of credibility.

Let's talk about the rest of it. You remember these photographs, Holly Place. This case, I submit, can be tried on Holly Place in Larchmont, New York, and I submit to you that the most important part of Jimmy Nesland's closing argument came near the end when he talked about Mr. Mirabella's testimony. I want you to remember this. It is without a doubt crucial. Mr. Nesland said after squirming and twisting and bringing the fog back in again, he said, "Well, it may be possible that it did not happen in the Mirabella house." I submit to you that he was hedging just a little bit, because he knew that if he didn't say that to you that he would insult the intelligence of every juror in this box; he really knew that; he knew he would have insulted your intelligence if he did not say, "Well, it is possible that it was not in the Mirabella house."

I submit to you that it is not only possible that it was not the Mirabella house; it was impossible that it was the Mirabella house. The man himself said so, and there is not one indicia in this entire trial why Joseph Mirabella would lie. He has got no bargain for testifying; he has no deal with the government; he is like you are, honest, hard working. That is what Mirabella is. And he told you about his driveway.

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2	Mr. Mastantuono, by the way, said he had to
3	maneuver the car in the garage, like Mr. Mirabella said
4	you have to do. Well, probably nine out of ten garages that
5	exist behind people's homes and under their homes, you got
6	to do that to get in. I don't think that is a particular
7	compelling point. But look at the driveway of Mirabella's
8	house; remember it from the picture. He said that he
9	had two cars and that it was his habit to park the cars
10	in the garage. Mastantuono said it was a Saturday. He
11	said the cars were in the garage. Another thing that
12	they didn't think of was the tandem garage, one car here,
13	one car in front. He said, you heard him, "It is impossibl
14	that in September, 1970, somebody pulled in my garage.
15	It could not happen. I would know about it if it happened.
16	Sal Autera didn't ask me. I would remember that event. That
17	would be significant. The phone calls could not be parti-
18	cularly significant, because they are of no consequence;
19	I don't pay for them; they just come in and that is it.
20	But borrowing my garage would be significant for a couple
21	of reasons. One, both cars are in there. They have to be
22	moved out. Two, even if I went to work that day, the wife's
23	car would be in there." To believe what Mr. Nesland tried
24	to argue to yesterday, you have to find about 15 different
25	sets of circumstances all working to insure that polody

was home in that house, that both cars were out, and I submit to you that if one of the cars had been in this tandem garage Michel Mastantuono would have told you, "When we pulled the Citroen in there was a car in front." Nobody can forget that fact. Really. Nobody could forget it. He didn't mention that, that is nowhere in his testimony, because it didn't happen at 23 Holly Place.

The government would want you to believe that the three kids went to school, that the man went to work, that Mrs. Mirabella, his wife, went out on an errand, and while all this was going on the Dodge Charger and the Citroen came into his driveway, that they went into the garage and proceeded to take the car apart for however long it took, and unloaded it. That is absurd. And even more absurd is the problem Mr. Nesland had to deal with, and which he never dealt with, and which he completely glossed over and rolled the fog in on, and that is Mr. Andreani's statement, "Shoo, people are sleeping upstairs." Baloney. It is baloney. It is not credible. What people? In one breath Mr.Nesland wants you to believe they all went away; in the next breath there were asleep upstairs.

"Mr. Andreani didn't know; he thought people were sleeping upstairs." It just doesn't wash, ladies and gentlemen. Your common sense tells you it doesn't wash.

What your common sense tells you is this, this house, 35 Holly Place, the home of Sal Autera, when Agent Bocchichio drove into Larchmont, New York, after finding out that Sal Autera, the evil pharmacist from Manhattan who happens to know Tony Stassi, when Bocchichio found that out, he said, "Oh, this is the place; we finally got Anthony Stassi; let's get up there and find that house." Do you know where they were going? Right here. They were going to 35 Holly Place.

Now, Mastantuono as listening, listening trying to deduce what the aents wanted to hear. He was listening. He wanted to get his deal; he wanted to make sure he didn't spend too much time in an American prison. They turned the corner. Lo and behold, the Autera house, 35 Holly Place, unfortunately, comes after 19 and 23. So the first houses they saw were 19 and 23. Mastantuono is so keyed up, so ready to go, hanging fire, says, "That is the house."

Bocchichio says, "Oh, what are we going to do? What are we going to do? Better get Mirabella's toll records; better subpoena the man's toll records; let's find out about this Mirabella, see if there is some way to connect it up." And by luck, because he lives only a few doors down from Autera, there are these toll records, and they think they will strike it rich, that somehow they can put it together.

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It didn't work. It didn't work.

Mr. Nesland told you yesterday that it happened at 23 Holly Place in his closing argument. But I want you to remember the evidence in the case. You remember what Mr. Mastantuono said right overhere. I had the pictures out in front of him. He said it is either 19 or 23.

That is the best we ever got out of him. Mr. Bocchichio, the agent, said, well, he was leaning toward 23. And Mr. Nesland says it is 23. Bocchichio comes in and he says it is clearly not 19. Mr. Nesland could not argue in the slightest, for he knew that would insult your intelligence, because when Mr. Bonielo testified about his way of life and what happened in his house he said it was impossible, because he had three cars and a father-in-law who lives with him, and they were out of luck there, and they had to move the garage to 23.

I am going to show you some pictures that I don't think you have seen before. They are in evidence. You remember that Mr. Mastantuono said on a prior occasion they drove to a place on Emerson Street in New Rochelle, New York, and they drove up to a house which is called the Collins' residence. You remember Agent Bocchichio said Mastantuono was excited, not quite as excited as at the Holly Place house, but he was excited, and he got out and

looked at the house and said, "Well, it might be it; it
looks like it." And the agents made an inquiry about it.
You also remember this very important fact, that Mastantuono said that the house looked similar, looked like the house where the drop was made. He said that to Agent Bocchichio. He admitted it to me on the stand. And the agents made inquiry of the Collins family and they found no connection to the Stassis. So they said, "It can't be the house, Mr. Mastantuono."

Now, we have here three pictures of the Collins family home on Emerson street for your convenience, front and two angle shots. Judge for the sake of fairness, ladies and gentlemen, I want to show you 23 Holly Place and 131 Emerson Street and ask you just to glance at them and ask you if you in your wisdom and in your common everyday experience would ever tell a soul that these houses are similar? A soul? Would you anywhere in the world at any time say these are similar houses? Now, Michel Mastantuono did say that.

MR. NESLAND: I object to that, your Honor.

THE COURT: I don't remember what he said.

MR. NESLAND: He didn't say those two houses were similar.

MR. KADISH: It looked like the house where the drop occurred. Obviously, when he identified the

Holly Place house and identified this, he thought the houses looked alike. That is what he said. That is the clear inference. I submit to you, ladies and gentlemen, that Michel Mastantuono is no moron, Michel Mastantuono is no imbecile. An imbecile or a moron might confuse these two houses and think they look alike. Might. Michel Mastantuono is a liar, is a man trying to please Table 1, listening, listening, deducing what the government wants to hear.

I showed him two other pictures, Holly Place houses, two other houses on Holly Place, 21 Holly Place. I ask you to look very carefully at that. Remember the address of Bonielo is 19. Ask yourselves whether that looks similar to the Bonielo and the Mirabella houses. This does.

"Mastantuono, have you seen this before?

"It doesn't mean much to me. It doesn't mean anything.

"This house on Holly Place, it looks similar to the last one I showed you on Holly Place."

He didn't see this one, either, Mr. Mastantuono said, and he also said, though, that he was very cognizant about where he was, he had to find his way about, had to know where he was going. Yet he does not remember those houses. They don't mean anything to him, because the only

time he was on Holly Place is with the federal agents to
make this case. I want you to take all these photographs
back into your deliberation room and I want you to think
about the testimony of Mr. Bonielo and Mr. Mirabella and
Mr. Autera; and I want you to think about the testimony of
Agent Bocchichio and about Michel Mastantuono; I want you
to take time with these defense exhibits. I submit to you,
ladies and gentlemen, that after you review all of that
and after you review the testimony of those people and
compare it with Michel Mastantuono's testimony, the perjurer
the man who sat with Mr. Nesland and said, "Mr. Nesland, I
want to stay in the United States; I don't want to be de-
ported. What about this perjury problem I have," the man
who sat with other United States Attorneys wondering about
his parole, I want you to think about that and about what
was hanging over his head and his motive to lie, and compare
it to Mirabella, Bonielo, Autera, and I think you will have
to conclude that there is total doubt that the Citroen
was ever on Holly Place and that Michel Mastantuono ever
saw Anthony Stassi.

That is not my only reason for saying that to you, not just the fact that it is the wrong house, the wrong street, the wrong city. That is not my only reason for saying it. I will give you some more reasons, probably more

compelling. You remember the last picture show here?
I am not going to ask anybody to look at them again, because
we have been through them more times than we care to go
through them. But it is important in this case. You remember
about ten days ago the door opened, closed, and Michel
Mastantuono came in. Mr. Nesland had him pick people out.
He did. By God, he picked Anthony Stassi out. That was not
hard. I am going to work backwards now for you. Mr.
Mastantuono had been through a hearing that you heard about,
where he was cross-examined by me and shown pictures. He
had been shown pictures of Anthony Stassi. Let's look
backwards. He had been shown pictures by the agents and
at the hearing for so long, and among them was Anthony Stassi's
picture. Mind you, that is all we are talking about now.
He had been shown these pictures of Anthony Stassi for
so long that I ask you to give no credence to the identi-
fication based on that.

Here is a picture, this Polaroid shot, Anthony
Stassi. I believe there are some more in here. You will
recall that each picture shown to him by the government
gets better and better, gets to be more and more of a likeness
of Anthony Stassi, each picture. I don't know where they got
them from. They keep getting better and better. And if
you look at them for as long as Mastantuono said he had looked

at these pictures and then walk in the door, he has got to identify Anthony Stassi. There are other reasons why, too, because, number 1, when he was here for the hearing the defendants were not here. But the lawyers were all here. So there was only a small group to choose from. He could not miss.

He couldn't miss, he could not miss. No way to miss just from looking at the pictures, at here is the telling question that was asked of Michel Mastantuono, this is the question:

Isn't there some confusion in your mind as to whether or not you can make an identification based on the pictures alone or upon the man who you saw in the flesh on Fifth Avenue in New York five years ago?

And he pauses and he says:

"Well, it is confusing. It is normal, isn't it?"

Well, I submit to you, ladies and gentlemen, it may be normal for Michel Mastantuono and it may be normal for me and it may be normal for you, but that is not a suitable eyewitness identification on which you can convict anyone and you certainly wouldn't want anybody to be identifying you in that posture. These Government agents have so prepared Michel Mastantuono by showing him photos of this man, so well prepared him that he couldn't miss.

Now I am going to show you by the evidence of the agents' very own reports that the man first identified as the person that Mastantuono said he saw on Fifth Avenue in New York City in the Citroen transaction could not have

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been Anthony Stassi, could not have been if you believe,

if you believe -- listen to this carefully -- what Mr.

Mastantuono said on the witness stand. There is no

magic to it. It is a very, very si ble process of deduction. It goes some thing like this, Exhibit P in evidence:

On January 26, 1973, while Mastantuono was being debriefed by agents of the BNDD -- this is a bad copy -- USCA, he was shown photographs of various individuals. At one point he stopped and pointed to a photograph and stated "This is the man with the glasses, the one with the ce Cadillac."

Reference was being made by Mastantuono to the unknown male who had arrived in midtown New York in the white Cadillac and then led a convoy consisting of the Citroen, DS-21, three other Cadillacs and a red Charger to a house located in and as yet unidentified suburban area where the Citroen was unloaded and "The man with the glasses" received 40 kilograms and paid the co-conspirators. Signed Special Agent Wanukowski.

Other officers on the report but not signing,
Anthony Bocchichio.

The Government didn't bring in Agent Wanukowski to talk about this report, his report, but I talked to Agent Bocchichio about it and I want you to remember that.

934 cs3 1 Let's think about what Michel Mastantuono said. 2 It will take just a minute to get the transcript. It takes 3 minutes sometimes. We have a lot of transcript and it has 5 piled up. Mr. Mastantuono on cross-examination -- just 6 remember this. You can't forget it, I'm sure. It is 7 already in your mind. I just want to read it to you 8 because it is so crucial: "Q And you left the snack bar. Who got 10 into the Dodge Charger? 11 "A Andreani in Mr. Stassi's Dodge Charger. "O Did Mr. Stassi remain in the Dodge 13 Charger for the entire trip around Manhattan and 14 then out of Manhattan? 15 "A Yes. 16

"Q Have you ever testified differently on that point?

"A No."

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It is all wrong. He messed up, as my sevenyear old would say. He messed up. Who is the man with the glasses in the white Cadillac? That is who he identifies. Let me read it from here:

"At one point he stopped, pointed to a photograph and said, 'This is the man with the glasses,

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the one with the white Cadillac.'"

You heard the man under oath. He said to you, he said, "Stassi was always in the red Charger. I never said it differently. It is absolute truth."

He said that, and there he says the man with the glasses in the white Cadillac. An agent wrote that down. I submit that is what Mastantuono said. He has made a terribg, terrible mistake. Let's not have a miscarriage of justice in this case because of that man.

Not only that, but the way the Government gave these photographs to him, I submit, leaves something to be desired. This was the one here, you will remember that comes out, in this envelope. I asked him to pull out the second of the photographs that is dark in color, brownish tint. This one nobody could point out. I don't know who it is. It is indistinguishable. The man looks like me. This man clearly isn't Anthony Stassi. You remember these are the pictures he is shown after he is shown the first picture. And this (-- he is focused on this stuff. The Government just . cuses him on them. You look through the pictures. You see if your attention wouldn't be drawn to these peculiar brown Polaroids. Anthony Stassi.

Then in this book -- this has never been

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explained. Bocchichio doesn't know. There are only three loose photographs. I will put them out. I will put this one out, this one out and this one in the back, indicating three in the whole book. Then again like that, three.

Who are they? One of them I don't know.

Maybe I do. The picture has a name on it. It doesn't

ring a bell with me.

Who are the other two? The other two happen to be Mr. Sorenson and Mr. Stassi. They are focused on him. Why does the Government do that? Why do they leave two loose photographs in this book and all the others pasted in? It happens nobody can explain that, but it is all wrong. For some reason Michel Mastantuono identifies some man in a Caddy with glasses. Now he has got the man with the glasses in the charger. It is just wrong. And then when he picks out this picture of Stassi, he says he picks it out, 109, it doesn't even look like him. You look at that. You remember it. Even Mastantuono stood up and admitted -- I said, "Stand up, Michel Mastantuono, and tell me all the different qualities that you see in that first picture that you picked out where you made this terrible mistake and tell us how it differs from the man himself as you see him."

cs6

He did. He said, "He got -- he's thinner.

Now he is heavier. Eis hair is different," and so forth.

He made about three or four distinctions admitting the error, and then we went back and it is also in the exhibits and you can read it, but I have it in my mind and I will just recite it without reading. He was asked:

"Michel Mastantuono, did you ever give a physical description of this man you say who was with glasses?"

And he says:

"Yes, I did.

"Q What did you say?

"A Well, I don't remember. I'm not clear."

So I tried to refresh his recollection a little bit and he admits that he said the man was 45. Now you remember I talked to Agent Bocchichio about t hat and the agent was a little uncomfortable. He knew he was in some trouble on that because he later found out -- you can't get all the facts right all the time. You just can't put it all together and sometimes they slip up a little bit, they don't hear right.

Agent Bocchichio found out that this man was 60 years old. Now he is 64. He was 59 or 60. So Agent Bocchichio said it is standard practice in the DEA

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when we give an age of 45 as 10 years either way. Well, that is about all he could go and even at 55 he is still five years off, and I submit to you that Michel Mastantuono in fact identified whoever the man is, wherever he is and he is not in this courtroom, somebody who was considerably younger, maybe more like 11, Albaduce, maybe more like J, John Astuto, maybe. but please, please don't let this mistake by. Reject them because of the mistake.

Read carefully Exhibit P and remember that testimony I read to you about the Charger.

You know what it is, ladies and gentlemen? Michel Mastantuono. Michel Mastantuono has changed his story so many times and has plugged so many people in at his own convenience to suit his own purpose so that he can sit down in front of Mr. Nesland and look him in the eye, a zealous prosecutor who is trying to prevent crime in the city, and fool him because he is telling him what he thinks he wants to hear to help himself and he fooled him and he is trying to fool you, but I know after hearing the evidence, after seeing the direct and cross-examination and retiring to the jury room with the exhibits, I know that Michel Mastantuono will not fool 12 of you. I know that will not happen because if it happens there will be a miscarriage of justice. You will not follow the rules

cs8

of reasonable doubt and burden of proof.

Remember what I said proven or not proven.

Table one must prove. Table two sits back and watches.

Proven or not proven, and it wasn't proven.

Now, this man John Astuto, all I could tell
you is what is in the rogatory, Exhibit I and I-l is the
French translation. You remember this quite clearly.

In his rogagory Mr. Mastantuono says that -- now I'm moving
to the June 1971 station wagon and that is window dressing.

That is window dressing, that is thrown in to make the
mannequin look better. The fog rolls in again. He said
in his rogatory he made to the French -- it doesn't matter.

Here is what he said:

The man is an American who met him in New York on the station wagon transaction in June of 1971. That man drove up in a beige Cutlass. You remember that beige. Cutlass. He met him in Manhattan, drove to the garage in New Jersey. This is the man, John Astuto. If there was an American buyer in June of 1971 driving a beige Cutlass, it is this man. He implicated this man, but he found out that he was dead. John Astuto had died. He had to find another ringer.

The Government wanted to know about the station wagon transaction. Remember what he said and what Agent

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Bocchichio said about the Cirillo-Astuto trial, the Califino trial. They were over by the time Michel Mastantuono was extradited to the United States. Those trials were over. The people had been convicted and Michel Mastantuono had to find some new names and some new people, and I began to work on that and he listened and lo and behold -- I don't mean this in any disparaging way. You remember before I said that he fooloed Mr. Nesland. He has, but to show you how it can happen to good, hard working U. S. Attorneys, you know for a fact that he fooled Mr. Viviani. I don't have to tell you that. You know that, because on April 23, 1973 Michel Mastantuono went before a grand jury, you know, and he lied so many times and committed perjury so many times that it is a travesty and Mr. Viviani put him on, put him before the grand jury and was fooled.

You take this exhibit back and have it with you and you will come to the portion of the exhibit where he identifies a photograph of the June 1971 first station wagon before the Federal grand jury in April 1973. You remember that station wagon in June 1971 and you remember it was stipulated that the photograph that was shown to him is a photograph of John Astuto and he said, "Yes, John Astuto was driving in June of 1971."

Is there any way for you to tell the difference, to make a distinction between what he said to the grand jury in June of 1971 and what he said under oath on examination by Mr. Nesland? There is no way. Do you know why? Because the only reason he gave, the only reason he gave for not naming Stassi on April 26, 1973 was Daniel Ouimet. That really was the only reason he gave. Otherwise he could have named Stassi.

You remember Danielle was involved in the transaction. She was close to it. He said, "I didn't want to name her."

Now, do you remember what I said about when I was over in the corner how he painted himself in the corner about all this and I read him where in the same grand jury testimony he didn't remember. He talks about Michel going to Miami. Read it, read it. It is obviously connected with the crime. He didn't need to protect her. He implicates her in the same breath and painted himself into that corner over there, and then I said, "Explain it to this jury. Give them a reason, please."

I gave him free rein and he said as his reason that "At the end of the testimony I said, 'Danielle really wasn't involved, she didn't know.'"

It is no here. It is just not there.

That is the fog. It is just like fog. It is not there.

in evidence, an interview of our old friend, Anthony
Bocchichio with Danielle Ouimet, April 26, 1973. If that
liar wants you to believe that he had to protect that
girl, you read this and make your own conclusions. She
interviews the agent and talks about stuff and goods and
the car was packed and transferring money and going to
Florida and tells her whole story. The only word she
doesn't mention in the whole thing is the word heroin,
that is all. But you don't get the kind of money that she
says she was carrying from selling marijuana, and that
woman is no fool.

You saw that on her cross-examination. She is artful. She is an actress. I had a tough time with her, no question about it, and that is because she is good at what she does. She is a smuggler. She brought it in and now, remember about her contact with Mr. Viviani, January 1973. That will be a fact that you will remember. It is in Mr. Viviani's own hand, the U.S. Attorney who was first fooled by these two people. First fooled by Danielle Ouimet and Michel Mastantuono.

In January 1973 he brought her down here.

cs12

You read what he says to her.

"You have passage to come to the United States for an interview with me and you will not be arrested. However, I cannot promise you that you will not be arrested in the future."

And she said, aha, I'm in trouble. It wasn't much for that woman to think why she was in trouble, because her boy friend was arrested in Canada, sent down here and served time in Eglin Air Force Base and she knew she could end up there too, so she said I better start telling him something and she testified and Michel testified they got together. They worked it all out. They were buddies. Michel said he had decided not to marry her. Maybe he didn't love her so much, but when he got that furlough at Walton Beach, you know who it was that came down from Canada, and I submit to you that they did more than just make love. They spent a lot of time talking about the case and listening and Michel had been listening to what the agents wanted to hear and adducing what they wanted to hear.

There was no reason whatsoever for Michel

Mastantuono not to identify Tony Stassi and place him in
the 1971 station wagon incident on April 26, 1973.

You can read that for yourself. It is as clear

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as	day.	It	is	anot	her	lie.	. I	t	was	the	only	thing
he	could	think	of	and	it	just	doesn'	t	wash	1.		

(Continued on next page.)

SOUTHERN DISTRICT COURT REPORTERS. U.S. COURTHOUSE FOLEY SQUARE. NEW YORK, N.Y. - 791-1020

T5 am

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the parking lot?

And Ouimet, she herself denied, I didn't know, 2 I suspected, you know. He was my boy friend and I 3 was sort of like a love slave to him, and you do n't want to look too far. Square that with the cross-examination 5 of Mastantuono when he picked up Ouimet. Remember he 6 said he chewed her out for making a ruckus on the dock 7 when the car was damaged. y would he do that unless 8 she knew what was going on? What about the thing about

You know, something happens in two hours, and you can put it on me. Mr. Newman mentioned that yesterday. What about that? She didn't know. She lied to you too. She just lied. She lied because she was trying to make her story consistent with his. And she could not identify the buyer in Miami as Stassi. And you remember what that man said, that one of the reasons he had was to protect her because she might have seen the buyer in Miami and she could identify nobody because the recipient ain't here. I don't know who he is. I don't know where he is.

I wish the Government had caught him because then I wouldn't have to be here as a lawyer for Anthony Stassi. But I do. I do.

Now, in addition to Exhibits X and W -- oh, by

Immigration records on Anthony Stassi to show how many times he went through the gates in this country and where he went. The Government didn't introduce any hotel records of Anthony Stassi in Europe. These American agents were all over Europe. You saw how they were working in France, you heard all about that. The agents, they do not ever try to help out defendants. Maybe there aren't any records. But you didn't see any. The Government didn't produce them.

Now you remember Mr. Mastantuono. I said to him, how many years of special parole do you have. He couldn't even remember that. Maybe he did remember it. But Exhibit AF in evidence shows that he has five years special parole. He said that he thought there were ten. He may have. What greater incentive to try to work with this man, Mr. Nesland, to tell him what he wants to hear and please the United States Attorney with ten years special probation facing you at least in his mind when he wants to stay here with his new wife who's identity we never did learn. What an incentive.

And Exhibit Z, this is the report from Anthony
Bocchichio about the houses. You remember Anthony
Bocchichio referring to the houses as being identical,

and you remember me sitting up there with the photograph. with Mr. Locchichio and going through them and picking out six or seven differences to the naked eye and Bocchichio saying, well, maybe you are right about that.

Also note in here how Bocchichio decides to go to Salvatore Autera.

Special Agent Bocchichio after conferring
with Special Agent Bradley and Special Agent Wanukowski,
he is the one with the exhibit of the white Caddy, learning
of the surveillance conducted of Anthony Stassi while he
was in New York. He was seen several times in the company
of one, Salvatore Autera, who resides at 35 Holly Place,
Larchmont, New York.

We will ask you to take out all the toll calls, all the exhibits, 97, 99. I don't remember the rest of the numbers. But you can see them, Miraballa, Salvatore Autera, Anthony Stassi. Look through the phone calls.

1975, '74, well after any allegations of conspiracy whatsoever. Look through them all. When you are finished say guilty by association. I am not going to let somebody hand me that. I am just not going to do it. I am a conscientious juror, and I am not going to do it, and I will put it over here with this pile. I will put it right over here where it belongs. I will ask you to do

that.

Now, I would like to --

THE COURT: How much longer will you be?

MR. KADISH: I am finishing up, your Honor.

THE COURT: I don't want to limit you. But I just wanted to know about how long.

MR. KADISH: That's all right. I was just checking over a couple of things.

of course, I also ask you to look very closely at the rogatory. I did that at length. The mix-ups about the cars, the number of Cadillacs, the number of colors of Cadillacs. The lying under oath.

Do you recall how that man nastantuono strained, how he strained on that rogatory to try to tell you that because he gave it to the French, it just didn't mean anything.

Oh, one of the other things he said, the need to lie before an American grand jury was to protect Guidicelli. When I handed him the rogatory, and I said, you used the word Guidicelli, you identified a photograph, and he gave you some malarkey about French law, and he knew they couldn't put him in jail.

Did the Government offer any evidence in it what the French law was? He was squirming on Guidicelli.

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He was squirming on everything that rogatory said. The truth and fiction were where Michel Mastantuono took his fall. He cannot discern it. He has lied so many times to so many people here in America that that man is no longer able in his own mind to say what is true and what is false.

I submit that you as jurors, have the right in that posture to totally reject his testimony. I ask you to reject it.

Now, in closing, I would just like to say this to you. This is the kind of case that really shouldn't be too difficult for you all to deal with. My co-counsel will follow me and will amplify some of the matters relating to some of the other Government witnesses. But when you go into the jury room and you pick up the exhibits offered on behalf of Anthony Stassi, starting with the pictures and going through all of this other group of materials which is all Government information turned over to us by law, by the Government under a statute because on the theory it might aid the defense and indeed it did in this case. It doesn't always. But in this case it became the defendant's, Anthony Stassi's proof. He didn't have to offer any, but he did just to set the record straight. It became his proof, the Government's own record.

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That is that Jim Nesland unfortunately has been taken advantage of by a series of people. In my case Michel Mastantuono, Mary Ann Verzino, Anthony Perna, Joey Condello. Those documents became proof that we offered to you of the lies. You weigh them. You count the lies. Remember Mastantuono's examination when I said was that a lie. Yes. We ticked them off, 1, 2, 5, 7, 10, 12. Bigger and bigger. A mountain of lies culminating in outright fraud of a grand jury who sat in this building. And I ask you, take those exhibits, take the evidence, try to remember some of the things that I have said to you, and have tried to aid you In going through the evidence, and I ask you in weighing it all to let justice be done in this case.

When I walk about of this courtroom, whenever it is, that you return a verdict in this case, let Anthony Stassi walk out of the courtroom with me. I ask you to do justice and acquit him.

Thank you for your time.

THE COURT: Mr. Garland, come up.

(Side bar off the record.)

THE COURT: Ladies and gentlemen, I think we'll adjourn for lunch at this time and return at 1.30.

Now, I don't know whether -- how this thing

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will go as to charging or not today, but I am inclined
to think I am going to ask you to be the guests of the
Government this evening in any event. You know, we've all
got our hang ups as I told you at the beginning. The
particular hang up of mine is that I started this business
when they always locked up juries, so it seems a bit strange
not to have them as guests of the Government. But in
more serious vein, we have gotten to the point now, and
I also told you the story about my partner saying that
when somebody gives you a camel for Christmas you will
find that all your friends are getting camels for Christmas.
I have gotten to the point where I can't pick up the news-
papers without seeing something that seems to be relevant
to this case. I have seen camels in every newspaper.
I got to the point of being concerned for your interest
now having become so focused on this case that something
may develop that would prejudice one or the other.
So whether or not we get to the charging part of the case,
I think I'll probably arrange to have you put up in a
hotel, and I hope a good one where you will be comfortable.
All right, ladies and gentlemen, 1.30, and of
course, remember not to discuss the case with anyone.

(Luncheon recess.)

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AFTERNOON SESSION

1:55 P.M.

(Jury in box.)

THE COURT: Mr. Garland.

MR. GARLAND: May it please the Court, fellow counsel, Mr. Nesland, Mr. Sear, ladies and gentlemen of the jury: I do want to thank you for the long and diligent attention that you have given to this case. You have had a silent role in it, and I know there have been times that you probably wanted to get in the action and to say something. That time for you is coming up shortly, when you have this case and you make the determinations that are to be made in it. I could not help but feel a sense of relaxation when this case first began and his Honor engaged in the meticulous task of asking you questions, and as I began to see the responses and feel the comfortable nature of the people that were on the prospective panel, I realized that there is a great deal of candor here in New York that perhaps we don't experience in the South, and I appreciate the way in the preliminary selection, how all of you expressed your Honor's feelings and beliefs and have taken an oath to apply the rules of law in this case, to decide it fairly and honestly, to reach a just and honest result. And in my comments to you I will attempt to be candid with

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you and face the issues that we have in this case and explain to you some of the facts that I hope you will recall and I hope that my comments will help in some way in your deliberations as you apply the facts to the law that his Honor gives you in your deliberations.

The central issue, of course, as we articulated it at the beginning of this case: Are the witnesses worthy of belief in a court of law by right thinking, honest people? Are they entitled to that? Does the testimony that they have given reach a level of certainty and liability upon which you, as fair, honest people, can rely? I submit to you that it does not. It does not, because of the very posture that the comes to you in is contrary to all understanding of human nature and all procedures of trustworthiness.

As you know, I represent Joseph Stassi, and Mr. Stassi as he is before you is entitled to have his case judged against him based on the testimony that relates to his conduct and the charges in the indictment, and to have it judged by what relates to him only. Then if you find he was in a conspiracy based on that, ask yourselves what is the direct evidence against him. Then you can consider other hearsay information. So I ask you when you go to the jury room to pull out the indictment and look at what the charges are, you will find that it charges a conspiracy

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and possession, that it charges it between January of 1970 and December of 1972. That is the time you are called upon to judge. Did a conspiracy exist during that period of time? Did these two instances of possession and distribution occur during that period of time? At or about the time alleged in the indictment?

Well, you heard the evidence and you heard an awful lot about conversations in 1973, statements made by people in 1974, statements of what other people say, agents testifying what others said in 1974. As to that, his Honor will explain to you how it fits in, if it does, in determining was there a conspiracy in the years charged.

Now, as to Joseph Stassi, who obviously was in jail serving a sentence, there are those witnesses that relate to him -- Perna, Condello, Verzino, who say they have some direct knowledge of what he did or what he said, those three people. Anything else you have comes in the tail end of some other discussion supposedly somebody referring to him. So that what it boils down to, in judging it, you have before you the statement of Joseph Stassi when he pled not guilty in this courtroom and his statements from the stand, and it is very pointed, and it has been manifested by him throughout the case -- it never happened. That is direct positive evidence from Joseph Stassi. Couple

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begin to ask, "How do we observe this case?" It begins right there, "I didn't do it. It didn't happen. It never happened." And by implication, the men who say that the things went on inside the penitentiary are liars, not worthy of belief.

I think a very interesting observation was made by Mr. Nesland, which is a central issue in this case. He told you that the lives of his witnesses depended on their testimony. Let us put it another way. You realize that his witnesses come here with the greatest of all temptations laid out before them -- freedom, freedom for their wives, freedom for themselves, freedom for their brothers, for Condello's wife, for Verzino's and Perna's. What does that freedom depend upon? It depends on a phrase in an agreement that was put together to be a part of this situation -- what is the government's opinion of me. I submit to you that as right thinking people in judging the credibility of a witness and the sufficiency of a case presented by your government that you should reject point blank putting a gun to a witness' head in that fashion. That infects the process of justice. Irrevocably, it is a temptation far beyond any in the Garden of Eden or anywhere else. But not only is it a temptation, it is a temptation with a threat.

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I ask you to think about that when you go back in the jury room, because that is what you have here. You have those three witnesses telling you that a specific event happened inside a penitentiary, and Mr. Nesland stands up and says to you, "Well, of course, their character is such that they ordinarily are not to be believed." He conceded that. The government would have to concede that. It is obvious to you.

As I think Mr. Newman said, you would not buy a car, you would not buy anything else from them; you would not trust them in the slightest affairs of your lives. They testify and their lives depend on it and they have got a gun to their head, and that destroys all right and that they are to be believed. Now, they understand that and indicated to you on cross-examination, those witnesses did, that they understood it. So I submit to you there is just that issue as to Joseph Stassi, simple and plain.

The prosecution's theory is, "Oh, they could not have done that." Well, let's spell it out like it is. There is no question that they have the capacity to do the act of telling a half truth and combining it with falsehood. You can think of any affair in your life, anything. You came from somewhere to here this morning. Well, if I wanted to tell you, like I can tell you, how you came here

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this morning, by car, by bus, what street you went on, then
I can add that on the way you sold narcotics, and I would
be corroborated by all the people that saw you come to this
courthouse by the way you did, up the elevators and so on.
And that is what you have here. And these witnesses have
the absolute potential and capacity to do as they did, almost
anything on earth that they would have to do.

worthy of belief. They have the capacity to do exactly what we say, to frame Joseph Stassi in their own way in their very own knowledgeable understanding. They have every motive that man could want to do so. So the central issue then becomes in the Government's position, well, because Joey Condello made certain statements in 1973, therefore, you should believe this case. That's it in a nutshell. Nothing beyond that. Not because he made them -- because Perna made certain statements to him and Bradley heard certain statements.

Just reflect on this reference to that. That is that Joey Condello was caught red-handed. Joey Condello to do his job as an operative for the Government had to become conversant in one, the objectives to be obtained; had to become knowledgeable in the desire of the investigative officers to make the case.

Now, why were they making the case? It is simple. There had been a mistaken identification by Michel Mastantuono of a man in glasses, heavyset. Some of you wear glasses, receding hairlines. There had been a mistaken identification as you well can see that that identification under the circumstances was made and obviously worthless, and it was obviously prompted by

Mastantuono's desire when he came here to make sure that he wasn't left out of the French bandwagon that he could testify against somebody to get something for himself.

You've got to give something to get something as has clearly been explained throughout this case.

had been written up in the French papers, I think Ouimet had commented on that. Bocchichio had told you how it was known about the variety of cars and you can use your common sense as to the amount of knowledge that existed in the court records and everywhere about those transactions, those same transactions that all these other people were involved in that allegedly are not involved here.

There is the Astuto group and all that.

So Mastantuono was sitting in jail for eight months knowing the law, having a group of lawyers, figured out that if he was ever going to get out with less than 20, 25 years, I've got to name somebody to make myself important.

Obviously he was shown some Italian Americans and he picked somebody out. Now whether he heard before he picked somebody out who they were or some discussion or other thing or knew from his contact who might be a good prospect, somebody the Government would bite on. But be that as it may, the inception begins back in 1972.

The case is opened.

Once the forces of Government begin to roll,
you have got a witness, Mastantuono. He says it is a
Stassi. You start out to make out the case. You put
somebody else on, you tie him into the brother that's
Anthony, and you tie it in to Joseph, and that investigation
is underway.

You heard about the surveillances and the other things. Why it must be true. Joseph Stassi is in jail for narcotics. No jury would give him the same fair trial that somebody who hadn't been convicted is entitled to. That's a thought. We can show that probably because of that prior event for which he is paying the price, eight and a half years in jail and facing a parole now. I just want to comment on that while I am commenting to you.

His Honor will instruct you that you are to give Joseph Stassi a fair trial and that that unless you find it proved by something in this case, that doesn't take away from him one bit his right to a fair trial. I submit you will give it to him. You won't be prejudiced against him because of that fact. But as the process of Government goes, once Mastantuono made himself important and the focus went out and then they caught Condello, don't

what was desired. So, armed with his objective, he engaged conversations with Perna, injected things at one point, he said, had nothing to do with that. And you take the slightest conversation over in '73 about a reference to an old man and you know the old man thing is switched back and forth regularly and to a visit and to a man named Joe and you will recall Mastantuono said on cross-examination every Frenchman goes by the code name of Joe or words to that effect. That's what we all do in referring to him.

thatmight have messed with narcotics? You take the word Joe and Tony and Old Man and you try to create in '73 a case that jumps back where you do not have proof in 1970 to '72. That's how the Condello thing comes about. You combine with that the natural nature of others. Remembers, when you are dealing with Joseph Stassi, he's sitting down in the penitentiary in Atlanta. The natrual potential of others to say things and exaggerate and to make references and to brag or to claim other things is there and you come out of here with this fragmentary bits and pieces that the Government wants to say makes a case because of Joseph Condello.

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What is the overview after that? The overview after that is very simple. Perna is caught, Verzino is caught.

Now, remember these people were partners.

They were friends before their time in the penitentiary.

As Verzino testified, went back a long time, something about the same neighborhood, I'm not sure. They didn't know Joseph Stassi before they got to the penitentiary.

Perna didn't know Joseph Stassi before they got to the penitentiary.

You have Perna and Verzino arrested. Before they are arrested though, they are meeting. They meet at the time Malizia is arrested. Then what do you have? You have these men one of whom said he was given instructions to kill the other one, his partner. You have these partners getting the same lawyers. You have these partners giving a story of cooperation and that story cooperation says nothing about Joseph Stassi. What does that indicate to you? These people are wise In the ways of the jails. Look, they have got us tied up every way from Sunday. We have got two ways out. Escape or make a deal. If we are going to make a deal to get out, as major as we are, to be excused or limitly excused to work it out where we can possibly get out in a year, we've

got to really have something to offer. You know, when you do this, you offer them a little bit and if you don't get everything you want, you hold back something.

So what happens? The partners tell something they know and they decide and they have gotten the same lawyers during the months of February, March, April, May, June, July, August. Well, we'll try the limited cooperation approach. See if we can get what we want. If not, we'll try to escape, which they both tried to do. One successfully and the other one unsuccessfully. They have got it down.

Now, what is the evidence about their opportunity to do this? Well, their opportunity existed on times in the bullpen that Verzino testified about and Perna testified about. Times when they went and conferred with their lawyers. Times when they were present in courtrooms at court appearances but one other way. That is that there was ample community.

Remember the extensive time I took up examining them about their ability, the grapevine in the prison, the communication factors? The ability to get letters out. The ability to have friends deliver messages, the fact that communication goes on. There is no question about that. They well know what happens inside the

penitentiary system faster than the people on the outside knows what happens. There is no question about their ability to do this thing. They have it. They follow an identical pattern, the same lawyers, same approaches, same attempts to escape, the same deals.

Get my wife out of it. My wife gets out.

Obviously the Government is not going to absolutely condone that kind of thing. But it has a way of happening, ladies and gentlemen.

From the questions the agents asked from the continued interrogation that goes on, the message becomes clear. How much clearer could it get as to what the Government wanted?

Now, remember there is no question of these men's desire to deliver with the guns at their heads and the plateful of food for a starting man who wants to get out, is laying out in front of him.

who is negotiating, giving them a statement, nothing about Stassi, tells them about a bunch of other people. He tells you he has his deal but it is not in paper and his wife is across the line. How much clearer can it become when the statement is made? Why you know Joseph Stassi was going to kill your wife. It couldn't become an clearer.

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Yes, devil, I'll eat the apple. I'll eat it right up because they have no morality about what they would deliver or how they would deliver or when they would. It is as simple as that. That makes this testimony not worthy of belief.

As an overview, before I read some testimony to you and I will ask you to bear with me, I ask you to realize that Michel Mastantuono is in fact a drug smuggler and for his own reasons or by mistaken identification, picked out Stassi, and he knows nothing about Perna, Verzino and Condello. They know nothing about him and there is no accusation that they are in league with one another.

What you have as Mr. Naden described is, you have a round hole, that's over here on the Mastantuono side. And then you have a square peg, that's Condello, Verzino and Perna. What's going on before you is an attempt to drive the square peg with these pliable witnesses through a round hole.

Now, realize Mastantuono doesn't know anything about these vague events and I am going to discuss with you in detail the vagueness, the lack of certainty of the events that Perna, Condello and Verzino allegedly say allegedly happened. Any my client says never did happen.

Kapatos says never did happen and Grillo says it never did happen. The testimony will show you that their discrepancies are such that it never did happen.

The Government would have you believe that

because there are discrepancies, you should believe them.

It comes from a tainted source not worthy of belief and there

are discrepancies to the point where it is totally incon
sistent and unreliable and in any business affair of your

life anything else you wouldn't put any stomach into this

with any certainty of this kind of lack of consistency.

They are saying it is inconsistent but it is worthy of belief. They are admitting it and saying that, well, I just hope somehow we can jam this square peg through that round hole.

Mastantuono knows about a shipment in 1970 and one in 1971. He obviously was involved in shipments and obviously has lied in front of grand juries in a way that continues to push it over toward the Stassis. The biggest red flag in the case, ladies and gentlemen, is the process of the identification of those houses. How did that happen? You look at that one house, it doesn't look like those other houses. How did that happen? It is incredible how it happened. It happened because when the machine of

Covernment begins to move along, people see what they want to see, and they hear what they want to hear. When they saw Tony Stassi with Salvatore Autera, it all came about. The pliable witness fit into the mold. No more identification of that fine man as having anything to do with that as the man in the moon.

That's a red flag to you. That's a red flag that tells you you should look back over at this square thing we are trying to shove together and see if it comes from the same position of suspicion. I am not saying the Government got down and just planned this thing. But I am saying that they let it happen and they want to see the answers that come forward. They want to take all the little facts and they searched high and low for any kind of creature that could come forward and add a little chip to force that peg through that hole. All they got were these three unworthy individuals.

So what does Mastantuono know? He says there are two shipmens at a certain time. You can assume that whe. Condello -- he says there is one shipment that had Stassi in it back in '73 when Bradley is dealing with Condello. But the existence of the indictment, the existence of the fact that Stassi is a suspect, you remember what Bradley said about when he said he talked

to Condello. His exact words were, ladies and gentlemen,
I told him, I know you know about Anthony Stassi's
narcotics involvement. It doesn't take a genius to
figure it out.

Yes, I know. You told me so. It is as simple as that. That's the way it happens and the outlines of the stories of Perna and Verzino that were put together obviously they haven't been allowed now to get back together and just work it up in face-to-face conversations.

that. But whether zealous agents, in friendly conversations with their pals that they have worked up into their witnesses, and others communicating back and forth can put this ragged skeleton together, there is no question that can happen. So the capacity for it to happen, the motivation for it to happen, the personalities who would execute it all exists. And they are not credible.

So Mastantuono tells you in '72, 72 when he is first questioned this Astuto group was in the second shipment in '71 and I saw some people in this shipment in '70.

Let's go over and see just what was said later.

When Perna had cooperated by November of '74 -when he had cooperated by November of '74, Mr. Bradley,

on the 6th and the 8th, and after Condello had cooperated had occasion to recall this process of what had gone on. What he knew and after talking to Perna, he says the shipments were in September of '71, December of '71 and in 1972 in April.

He writes that report on the 6th. He writes it again on the 8th. He puts it down. Now, I want to pause for a second and we will come back right here, I hope. Let's talk about it.

and Verzinos of the world and human liberty, what are you entitled to when into your hands is put the liberty of a 69-year old man in a situation that he is in and the future of his wife with him? She is here today seated behind him. What are you entitled to? You are entitled to some accuracy, some reliability, some certainty.

What do the Government agents do? They don't write a thing down. Interrogate these people, they had a pencil in their hand, a pad before them, they write sometimes something down and where does it go? It goes into the deep six, or shredder. Months later, the report is written.

Do you remember his Honor said this is not the kind of report that would have the details about strychnine

that? But the cross-examination revealed no such report existed. It was never written down. Now, your Government in dealing with your liberty or your friend's liberty or mine or anyone in this courtroom and including this man, should mash a button on a tape recorder, and take it down. They should write it down, sign it and say that this is their notes, here is what he said, if they are going to start bolstering their case with that kind of stuff. They should record in detail the statement such as allegedly strychnine or go see my brother and get into the narcotics business.

Bradley said that didn't happen, incidentally, in his conversations with Condello. But I will read you the testimony on that little bit. But you are missing all of that. Certainty, reliability, believability, something you can trust, something you'd invest \$5 in.

Why is it?

Well, the case wasn't all together. Nobody is going to put all those details down, things may have to be molded, we may have to, it all doesn't match up.

Mastantuono has got other people, we have got to get this thing molded, don't write it down. That's in the back of the mind of the man who wants to make the great big French

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connection case. It is not overt, but it is there.

It is the process, achievement, success, accomplishment.

Reliability is missing, trustworthiness is missing. So
you go back.

The Government writes down that Perna relates that it is in '71. That is what is submitted up the line.

Now, was it at that time that Perna knew from information in the grapevine about other prosecutions, his extensive narcotics knowledge, was it that he knew that there had been other shipments during those periods of times? He placed it over there and then it was, wait a minute, back up, it was inconsistent with Mastantuono. Then he corrects himself. Remember we are dealing with a conspiracy, here is a man in jail with no money, Perna, if you accept anything he said, having little money, having little to send up to his wife and family.

He only wor d in his life, from his estimony, about six weeks, otherwise he engaged in so many narcotics dealings and didn't know how many crimes he committed and as his honor pointed out to me, it becomes irrelevant the amount of time that faces him because it is far beyond his lifetime.

This particular personality, Perna, with all

this knowledge had the absolute ability to make those statements. Now, he relates an event in '71 but he also throughout always related the '72, April , transaction.

Even later when he says he backed it up, he moved back from '72 over here to '71. He always left this one over here in '72 because he got out in '72.

Now, do you believe that a man who got out in '72 and believes there is a shipment in '72, got mixed up about whether it was a year and a half before? That is, in the words of my colleague, baloney. It is a red signal to you.

Now, Perna says, well it was in -- when he corrects it all up, he goes to these alleged transactions about which he knows, about which money is important to him, about which there are hundreds of thousands of dollars that there is potentially in it for him, he tells you later, he gets it straightened out. He didn't remember that important transaction. Of course you recall there are no records, he didn't keep any records of the money he was going to make or anything. You see, when you get down to the specifics with Perna, it evaporates into afog. It just disappears. When I get, or when you get to specificics, it is just not there. When you talk about it to Perna in September, you talk about it with Perna in

December and then over in June, you find that he is absolutely inconsistent with Mastantuono.

Let's talk about that. What does Mastantuono say? Mastantuono says I brought one shipment. 40 kilos, that's what is charged here in the indictment. That's what is over here in the round hole, 40 kilos into the United States. Mastantuono knows nothing about a second half of a shipment at that point in time. Yet he is a central figure in a narcotics smuggling venture.

What does Verzino know about that firstly?

He testifies that it is a two-part load. All of it the same night. Now if that's not his testimony, then his testimony is that -- I'm talking about Verzino now.

Verzino's testimony is that the next load is in the early part of November. It is a two-part load. But it is not clear in the record. In any event he testifies that the information he receives is a two-part load at one time and Anthony Stassi allegedly goes and takes one part of the load and gets the money and comes back and takes the rest of the load.

Mastantuono knows nothing about that, does he?

Nothing. This is the first shipment where you get the square peg and you are trying to beat it through the round hole. He knows nothing about that. He doesn't know

anything about any other shipment at that point in time.

The next thing Mastantuono knows about is one over in

June.

Now, he has other shipments with Cirillo and Astuto and other people. What happened? Perna and Verzino, the first one is 120 kilos. Mastantuono, 40. It didn't happen. You can see how it is pieced together. Verzino places the next shipment either before or after the Christmas holidays. He places -- that's the third shipment.

The second shipment he places In early November.

It likewise being a multi-load. Mastantuono knows

nothing about that. Verzino knows nothing about a ship
ment in June. Perna knows nothing about -- excuse me,

in April or June.

Verzino knows nothing about supposedly what Perna knows and Perno knows nothing about Mastantuono's shipment in June. It doesn't match.

All it amounts to is this, Perna and Verzino put a loose knit accusation together that Joseph Stassi got together with them and said let's bring in heroin.

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It is significant, ladies and gentlemen, that Mr. Verzino testified he knew Otvos' brother's address. He recited it on the stand. He knew it before he ever got to the Atlan a penitentiary. He knew Otvos well enough to have his address and phone number. And I am going to read you testimony about how this thing allegedly began and you will see where it doesn't exist, where Otvos and Verzino know each other, and Stassi is not in it. What do you do in this situation? Well, you just take part truth what I am doing? There is my relationship with Malizia. Obviously, if I am Verzino, I know Malizia, because I was his partner in 1973. I know what Malizia was doing; I have been at tables with him, conversations; I have heard Malizia say, "I got big loads," "I did this," I did that." You can be sure that happened with a narcotics partner. He was caught with 26 pounds of heroin. So it is easy for him knowing Albaduce, and Albaduce was arrested and in the penitentiary before Verzino left, knowing all that, they have the opportunity to put this frame together. Verzino knows Otvos, Verzino knows Malizia, Verzino knows Perna. What do you do? You just reach out and you say, "Now I have got to give them something to get myself out. I will point the finger at Joseph Stassi." Why would he point it at him? Well, if I am going to frame anybody and I am an intelligent

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criminal, articulate criminal, I am going to frame somebody I know something about; I am going to frame somebody that I can tell you the A, B, C's about; I am going to frame a man whom I know, somebody I know where he was. Somebody else might have an alibi somewhere. I am going to put it right on him and other people that I knew where they were at different times. But I want you to deal with Stassi. There is strong motivation. I am going to put it on a man I know about. I am joing to put it on a man whom I have a deep seated resentment against because of an unfortunate thing that is in me, and I resent the fact that he knows it. It is love turned to hate. It is there. The homosexual incident occurred. And Mr. Nesland did not really argue that it did not occur. It occurred. The glasses were there; the witnesses were there; the offense took place; the man who participated appeared. That occurred. The motivation is there. That is who you frame. Why, after all, the government will go for Joe Stassi. There is all kinds of hearsay in the file that I have knowledge of. I am Verzino, I have read his file. I can put something in this thing against him. There is this Mondolino fellow. What did

There is this Mondolino fellow. What did

Mastantuono know about Mondolino. Verzino, "Oh, I will

frame him, by God. This man can't defend himself. He is

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in the penitentiary; he has been convicted of perjury; he has been convicted of narcotics. Who else can I put it on?" And all you do is to reach out and rut him in, include him in your statement of August 14th. You will recall that. It is here. I think it is Government's Exhibit 15. Government's Exhibit 15 spells it out, what Verzino knew and said, tells all about the people that are in his code. You just plug him into it. It is simple. It is easy. And then let your partner know the details, the rough details of the structure. You plug it right into here. It spells it out. You just add a phrase, you know. You can point a finger at any number of people, but you point it at the weakest, the least defensible man, the man you have a deep bias for. That is who you point it out. And the nature of the Mastantuono events tell you the nature of the government's steam roller. You just point that finger.

Now, Joseph Stassi takes the stand and says, it never happened," and he mumbles on as an old man in his sixties, saying it was not true the first time, "I didn't do it the first time." And the government says, "Oh, well, that couldn't be; he is, therefore, lying to you because he protests his innocence on the prior case." I ask you not to buy that garbage. Don't you believe for a minute a mistake cannot be made and liars can't deliver. You

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remember Mr. Kapotos. He spent 22 years on a sentence in jail, and a judge of this court set it aside after 22 years because there was perjured testimony and because exonerative information was withheld. Right here before you.

Joseph Stassi rambled on for a long time to try to tell you how he was not guilty. That is not before you, whether he was guilty. And if he was guilty, it proves nothing in this case, absolutely nothing. It does nothing more than raise the spectre of prejudice. It does nothing more than aid Verzino and Perna in being able to convince the government, "Oh, it is probably him," words from men who would not be accepted anywhere by decent men. "That is the kind of man we got to put it on. It is simple." But it makes your job very, very important, that you are not prejudiced against him because of that and that you give his words meaning. "I didn't do it; it didn't happen." I is, indeed, a challenge to you to do so without prejudice, to weigh the testimony of these liars in the scales of justice, as the statute shows, with a blindfold on, to weigh it without prejudice, without the prejudice that we all have inherent in prosecutions for serious offenses, to weigh that, to put on the one side Verzino, Perna and Condello, ask yourselves, "How

far down do they push the scale," put on the other side

Stassi and the witnesses from the penitentiary and decide,

"How far down do they push the scale, and if the scale just

sits there and does like this (demonstrating), the law

says you have an obligation to return a not guilty verdict.

His Honor is going to explain that to you, what it means.

Others have explained the meaning of reasonable doubt. If

you are not certain, if you are not confident, if you are

not content with your feelings that it is true and proven

by evidence, then the law says you should acquit. That

is what it says. You raised your hands, you took an oath,

you said, "I will do that." Well, I challenge you to do it,

to do here in this state as fair minded citizens do throughout the country. We are confident of a verdict of not

guilty if you do that.

The government is going to say, "Oh, you can't believe those witnesses. They are in the penitentiary.

Joseph Stassi is in the penitentiary. They will suffer retribution; they just came here and lied." That is just speculation, because there is not one bit of evidence as to that. Nor did the government on cross-examination suggest about the defense witnesses that there was any motivation for them to lie. So in weighing the scales, you know all the motivations that lighten the scale over

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here on the side of the government witnesses, and there is no more motivation that could exist for a human being than they have, no more temptation. You know, even a good man, a good honest man confronted with an axe over the head of his wife and the thought of the loss of his own liberty for the balance of his life, even an honest man's testimony would be suspect, wouldn't it? Lord knows the instinct of self-preservation is the most powerful instinct of all. You hear the stories of people letting cars go over them to save their loved ones. You did not need to shoot adrenalin into the veins of Perna, Verzino and Condello; it is there, the motivation, intense motivation to do that. So that on the side of the scale you have those witnesses, and on the other side you have those witnesses who appeared for the defense, who were in the penitentiary, you have the business, the proof of the homosexual incident, the proof of the narcotics sales in the penitentiary, the proof of the things that went on in the penitentiary concerning Condello and Verzino and Perna that they denied. You may say, ladies and gentlemen, "I am not going to believe those defense witnesses; I am not going to believe those government witnesses; they can't be trusted." If that happens, the government's case fails, because you don't know which ones to be leve, then there is more than a reasonable doubt.

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The basic general principle is if you can't determine which to believe and they are equally credible and believable, then you accept the side of innocence. In that event that is what you are faced with.

I intend to read to you something from the transcript, but I think more appropriate is a description of how you should consider Verzino, Perna and Condello, and I will read to you from a letter by Mr. Perna under the coded name Casal that is in evidence. He uses these words, "You have continuously proven to be wort less and undeserving," Perna talking about a United States Attorney. But Perna's words should be inscribed on a medallion and hung around his neck, because he has continually proven, and so have those other witnesses, not to be deserving of belief. I just want to read some testimony that I think illustrates the status of these witnesses and their feelings, and you, of course, have to judge from their testimony what the value of it is.

Let's take first Mr. Perna. He testified-- and I wonder if you recall this on cross-examination -- about other escape activities that he had engaged in, page 438. I was asking the questions at this time:

"Q Mr. Perna, at the time of your escape from West Street was it your intention to return to the sale of narcotics 1 mmh
2 as a mechanism to raise money?

A Yes, sir.

Q Did you attempt to escape from any other jails since you attempted to escape from West Street?

A No, sir.

Q Did you plan at any time with anyone to attempt to escape from any other jails?

A No, sir."

Is it the opinion of the government that he is telling the truth? You see, it is wrong to put credibility in a posture of opinion because you know it is a lie. It happened, during the trial that it was a lie, and it came out in Mr. Mastantuono's testimony, "Tell the court and jury what you saw that man do when you met him in Bergen County?" Then there was colloquy, and he answered, "He was trying to escape; he was watching the times of the different shifts of guards and he was trying to prepare the keys.

There it is a stipulation that it is Mario Perna.

"Q When was this? Do you remember what month?

"A It was not very long a time prior to my release; it was approximately one month prior to my release.

"Q Was it before or after you selected the photographs?

"A It was before."

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Mr. Perna with his intense motivation to lie sat:
there on this witness stand and lied to you. It happened
right here in this courtroom. Can you trust his statements
when you are dealing with the life and fate of this man? You
cannot: I cannot: you cannot, not in a decent, right thinking
society.

Now, when Perna was making those kind of statements to you I want you to go over a little bit his state of mind.

Page 462 -- and I ask you to bear with me because this is the last time anyone will have an opportunity to speak for Joe Stassi. We spent a long time getting here and I want to give you whatever information that I can and I ask you to bear with me:

And the government has agreed to relate the fact of your cooperation of the time of your sentence, have they not?

A Yes, sir.

Q And you are hopeful they will relate in such a way bout your cooperation that they say we think he did right. aren't you, and that they won't say the deal is off? You are hopeful that won't happen?

A Yes.

Well, now anybody knows the government wants to get a conviction and that man knew that is what the government wanted and he is going to do things to help get out. It is simple as ABC.

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"Q And when you first cooperated and named the people you were involved with in 1974 you did not mention Joseph Stassi? Is that correct?

"A Yes.

"Q And also you were aware one of your courses of action would be to escape if you were caught?

"A Yes."

Now, Perna told you that he never asked anyone to sell narcotics in the penitentiary. Page 453:

"Q How many people did you ask to help you sell narcotics?

"A No one."

Do you remember Mr. Parris serving 85 days on his sentence, testified he was selling narcotics for Mario Perna. And the others? You recall the others. Mr. Perna continued to lie because he was lying to help himself.

I think this is very instructive to you on this man's attitude, whether you can trust him:

"Q And you are hoping your testimony will be believed?

"A My testimony will be what?"

That is perhaps a Freudian slip if you read it correctly. The words tell you something.

"Q Bel wed by the jury.

lawyer, and the man wanted the job to run this big company.

He had another man come in there, probably a

"Thank you very much," and he excused him.

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He was asked, "What is 2 plus 2?" And the lawyer said, "Approximately four."

Then they had a third man come in -- I think he was probably a Perna or a Verzino -- and he was asked, "Sit down, sir." The man said, "I want the job." The executive said, "You have a reputation for being able to get things straightened out and get troubles solved.

"Yes, that is right."

And then the man got up and went to the door and shut it, went over and drew the blinds. And the businessman asked him, "Sir, what is 2 plus 2?" And the Perna-Verzino individual got up and walked around the desk and said, "What would you like it to be?"

That is all you got here, nothing more, "What would you like it to be?" God knows, I want to go home.

Your Honor, I have been speaking for an hour. Could we take a break at this time?

THE COURT: How long will you continue?

MR. GARLAND: I am sure I have another hour.

THE COURT: We will take a recess.

MR. GARLAND: Before I return to go through the transcript with you, there are a couple of points that I want to make and ask you to remember. One is the question of why was it that Mr. Verzino could be at Mr. Stassi's

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home after this incident in the library which occurred.
That is not hard to answer. One, it was never related to by
Mr. Stassi to his wife nor to anyone else; two, Verzino
was not one to make a sharp break with his wife's best friend
because it might alert his wife and the whole question might
come up, and, somehow, she might find it out. So it would
be normal for him not to separate his wife from her dear
friend, the lady who is here today, who was kind of a mother
to this woman. After all, she was not involved in his nar-
cotic transactions on a daily basis, and that would not
be abnormal for him, and it would not be abnormal to harbor
a hatred but at the same time allow his wife to continue
her association. The pictures you have are no evidence
of a crime, and you have seen them, pictures of Mrs. Verzino
and Mrs. Stassi. The testimony is that Mrs. Stassi knew
absolutely nothing about this. You will recall that. But
the testimony is that the one person who knew about what
Mr. Verzino was doing was Sue Verzino. She knew. Not Perna.
The government has argued that to you. Verzino didn't know
what Perna was doing; Perna didn't know what Verzino was
doing. That is the argument. But that didn't happen. And
the one person who knows it, the one person able to offer
information to this jury, that I would want the government
to bring in and put on the stand and corroborate a man like

2	Verzino, would be his wife, the wife who in an agreement
3	the government is letting out. That is who I want to hear
4	from. After all, the entire burden of proof rests on the
5	prosecution. The indictment, that piece of paper, as his
6	Honor will explain to you, is no evidence at all of any guilt
7	it is not to be considered by you as evidence of any guilt.
8	It is an accusation, nothing more than that. And the judge
9	will instruct you about that, that it is nothing more than
10	an accusation. So you have that principle of law. And I
11	ask you to apply it here in this case. I ask you to apply
12	it in judging the testimony of Verzino. I ask you to apply
13	it in judging, "Did the government dealing with human liberty
14	bring me corroboration, circumstance and fact? The person
15	who knew about the face? Who kept his money? Who dealt in
16	the kilos, who dealt with these supposedly other people,
17	who knew about the code." Who can tell you all about it?
18	Sue Verzino? Who has the burden of proof? Right here.
19	Take her, put her on that witness stand, let her corroborate
20	i . She is not here. In weighing those scales remember
21	that fact. Since Perna does not know what Verzino is doing
22	and Verzino does not know what Perna is doing, bring in
23	someone who knows. Why? Don't you want to carry your burden?
24	It is too thin as it is. You turn it around, it looks
25	like something different on every side you look at it, the

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shipmerts, the quantities, the division, the time, even the Frenchmen according to Condello. Condello says "It is Nebbia." Trustworthy? Turn that ball over and you just see something different. The point is that the government failed in carrying its burden when it didn't bring in Sue Verzino, absolutely failed in giving you credible, reliable evidence.

Who is the other one if I was in your shoes I would want to hear from? Cuzzie, the one who knew what Perna was doing and with whom he was doing it. But where is she? There is the burden of proof beyond a reasonable doubt, by certain, reliable, believable evidence. And it has not been produced.

This is no reflection here; Mr. Nesland is doing a job, but it has not been done. You are entitled to it.

And the defendant has no burden to put on any evidence at all. He is presumed innocent. He has looked you in the eye and said, "I didn't do it; it didn't happen." So I ask you to reflect on that and on the fact that there is a substantial doubt about what happened in this case.

I don't think many lawyers can ever sit down without trying to explain reasonable doubt in their own way.

I want to explain it in this way; It is the kind of feeling of uncertainty, an unsettled feeling that you might have in

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submit to you that an example of what that kind of feeling might be would be if someone came to you today and asked you to move to Atlanta, to move out of New York, away from your friends, take a new job, leave your church, leave your community, and say, "I will pay a little more; I want you to go." You sit in your has an your comfortable rocking chair. You would say, "I would like to make more money, but I don't want to leave New York and go down to Georgia." That unsettled question would be a reasonable doubt. It runs through this case, until the only question is, is there any evidence at all that decent people would pay any attention to these government witnesses? I submit to you that there is none. There is a reasonable doubt throughout.

I want to refer to Mr. Perna's letter, another letter, in which he says, "It is better for me to chuck the whole thing"--

I was about to read you a document that evidently is not in evidence. I would ask you to disregard my comment quoting from that letter.

Now, in weighing the credibility of the government witnesses versus the witnesses of the defendants, remember that the defense witnesses did not have immunity. Some

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of those witnesses were on parole, outside in their ordinary
jobs, not inside the penitenitary. They were still on a
reporting program. They had nothing to gain. There is not
the slightest suggestion that they had any reward, and if
anybody suggests that after me and it is discussed in the
jury room, I ask you, won't you speak up and say, "Well,
the prosecutor didn't ask one question to suggest that there
was any motivation for those men to lie. Nothing." I am
sure he will suggest they are in prison and will do anything.
There is no evidence of it or anything for you to judge.
I want you also to remember, please, in your jury room that
Perna used his wife, used his brother, used the priest, used
his testimony, clearly lied to you. And he would use you.
He would. Verzino, his partner, used his wife even after
he was in jail to pick up and deliver the money that was
part of the criminal enterprise he was in. His Honor in-
structed you, remember, that Joseph Stassi had nothing to
do with that. That is a separate and distinct matter,
those other activities that Verzino and Malizia and whoever
else participated in. I ask you also to remember that
Perna told you about the extensive knowledge of people he had
who were supplying and receiving narcotics. That had nothing
to do with Joseph Stassi.

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they knew enough about every single thing to put this together and to attempt to make it have a semblance that could be believed.

I want to point out something to you that is just incredible to me. Perna claims that the man he had never met before he was in the penitentiary, that he related he only had a few conversations with, Joseph Stassi, tells him, "I want you to kill your partner, the man you have known all your life, the man who has been your partner before," and the man whom the evidence shows was his partner later. That does not make sense. That is window dressing, absolute window dressing, to put the spectre of a man driven out and ordered to kill people in this case. Boy, that is not stuff. You cannot buy that. That is real good bait. Well, that is what you have here. That is all that amounts to.

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Perna the man not in contact with Stassi according to the testimony suddenly becomes the man who is going to kill Verzino. It just didn't happen.

I am going to read you some of Mr. Verzino's testimony, the framework of his mind when he was on the stand.

"Q While you were in jail, you began racking your brain and scheming, didn't you?

"A Yes.

'Q What do you mean by scheming?

"A Just what the word means in English.

Formulating whatever thought, plan or idea I could to better my position.

"Q You knew from your years in the can that one of the ways you could scheme to get out was to give somebody else, did you not, you knew that?"

That answer, and not at all, I would submit to you is a truthful answer.

"A I had been told that.

"O You knew it?

"A Yes.

"Q And you knew when you talked, when you called up Mr. Cunningham and asked him, you to'd him that you wanted to talk to Mr. Cunningham, you

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knew you h i to give somebody up?"

'A Yes."

State of knowledge of what he had to do was there. The ability to do it was there. Motivation to do it was there and it is right out of the testimony. A part of the testimony that has been referred to but I wanted to read you this testimony, is from Verzino.

"Q If you know someth ing, it is not too hard to fabricate other parts?

"A You only involve the omission of certain facts.

"Q Or the inclusion of facts which are false facts?

"A That is right.

"Q Then it becomes true once you do that to separate the truth from falsity, you know that?

"A Yes."

The point is that Verzino knew how difficult it was because he is a man for years had studied the whole business of truth from fiction and how easy it is to take what we don't know, whether it is the truth or just another lie, but to take obviously his detailed knowledge and insert our client in it. That's what he said and that's what he knew and that's his testimony, and I submit it to

ps3 2 you to judge. 3 Ard finally: Is it your testime ny that when somene asks you questions, you can deduce what they are 5 6 talking about sometimes? 7 At times, yes. At times, yes. "A 8 It is not too hard to do? "0 At times it is not, no. "A . "Q You were asked a lot of questions from 10 the time of your first attempt to cooperate in the 11 12 beginning of August? 13 "A Certainly. From which you could deduce the information? 14 15 At times, yes." Now, I want to go to some of the substantive 16 testimony and deal a little bit with Mr. Condello. You 17 recall Mr. Condello was the habitua. hijacker, a number of hijackings, the man who willinely used his brothers as 19 guinea pigs to test his heroin on. 20 21 Would he use you as a guinea pig? Condello, caught up by the agents, obviously 2 learns the information desired comes here and test fies. 3 He testifies about several things. Let's look at it. 24

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He testified that he didn't go up to Mr. Perna.

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"Q Will you answer my question. Prior to that time, had you gone up to Perna and said what is there that you got going on with Verzino and why have you held back on me?"

You recall, this is the testimony that Perna says that Condello went up to him and said certain things and said, you know, I heard about Joe Stassi and all this.

What does Condello say about it when questioned about what Perna says?

"A No, I did not."

Right prior to that, he was asked:

- "2 Whatever were they discussing?
- "A They were discussing narcotics.
- "O You testified about that?
- "A I did.
- "Q Had you known about that any time before you heard that conversation and if you had from whom?
 - "A No, I can't recall that.
 - "O Now, is your memory all right?
 - "A My memory is fine."

Then he goes on into that. The point of this is that Condello disputes what Perna said transpired. Now what did Perna say? Perna said at page 127:

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happen.

"Q Will you please tell the Court and jury what you said and what Joey Condello in that conversation said?

"A I was up in the dormitory and Joey
Condello walked in and he said to me, you are a
helluva pal. You are making all kinds of money.
You, Bubby, Tony are making all kinds of money and
you never told me anything about it. I said to him
I have no idea what you are talking about. I have
no idea what the hell you are talking about.
He said, well, I had a conversation with Tony
Verzino and Tony Verzino told me you are doing
very well for yourself and you gave Bubby an
opportunity to earn himself some money. Then
finally I told him, did you tell the whole
business --"

Excuse me, Perna goes on to say, he went to Verzino and he asked Verzino:

"Did you tell Condello about Joe Stassi?"

And Perna said that Verzino said he did.

Well, Condello says that conversation didn't

Then what does Verzino say?

Verzino says that that didn't happen in his testimo ny. Now what does that prove?

It proves that Verzino is a liar, Perna is a liar and Condello is a liar. It proves one thing, that it didn't happen. That's what it proves. It just didn't happen.

"Q Do you remember Mario coming up to you and saying hey, what's going on? What are you talking to Joey Condello about, what we are doing?

"A No, I don't recall that.

Nr, Condello took the stand and he testified right before he was leaving to go home that he said Joe Stassi had a conversation with him in the button room, in the sewing room, and he said Stassi had a conversation with me about me going and being bad and selling narcotics and without reading every word, I will read selectively. But Condello said, and I want to read this to you to illustrate the facts that the proof is not there and I am burdening you with that for that sole reason.

The testimony is at page 788. Talking about Stassi:

"I don't know what your intentions are when you are getting out, like you are going to do the right thing, still going to do but if you are going to do it, in other words, be bad like whatever you

call it.

"THE COURT: Be bad?

"THE WITNESS: Like in other words, still keep dealing, whatever they would, you know, get in touch with me like to see his brother Tony and I could get into, you know, narcotics where I can at least earn good money and that was the topic of it."

Mr. Stassi says this didn't happen.

"He also took -- I wrote my name down, my phone number, my address. He told me I would get in touch with you and that was it."

Mr. Bradley that? Mr. Bradley's testimony, and I think you all probably thought I was really taking up the time of the Curt, and I apologize to you and to his Honor for some of the times that I went on as his Honor well pointed out repetitiously, and I do want to say that being in this trial before this Julie has been a pleasure and you have seen and had an opportunity to see the system work as it should and of which you at this point are a very important part.

Mr. Bradley, question by me:

"Relate to the jury what Mr. Condello told you about a conversation on the day he left the peniten-

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		tiary where he said it took place and what he said?"
2		I am asking about that conversation.
3		"A I don't recall him telling me where it
4		took place. The only thing he stated to me was
5		when he got home Joseph Stassi said my brother will
6		look you up and maybe give you a job, something
7		to do."
8		That's not like Condello said it.
9		"Q Do you recall him saying anything else
10		to you, Condello, about that conversation?
11		The day he was going home that was the
12		basic conversation.
13		"Q Is that everything you recall he said?
14		"A At this time that is all I recall.
15		"Q Do you have anything written in your
16		reports that would refresh your recollection that
17		might add a fact or statement to what Condello said
18		
19		to you? "A Regarding that incident?
20	(toseph Stassi said, is
21		"Q Regarding what observed there anything in your recollection that leads you
22		to believe that you have left out a fact?
22		to believe that you have

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"Q How many times have you reviewed your

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reports in connection with this case?

"A Approximately ten times.

"Q As far as your own recollection being refreshed by your reports, do you recall Condello saying nothing other than that you have labeled it?

"MR. NESLAND: Objection, is that what he said in general or is that with respect to this

"THE COURT: This conversation.

"MR. GARLAND: I'm sorry, that is what

I mean.

conversation?

"A That is all he stated regarding his last day before going home."

I couldn't ask another question. I believe the Judge would have cut me off. But he didn't say that about the being bad and the narcotics. Any time before the time he got here while in Washington, D.C., the approval for the dismissal of cases against himself and his brothers are still hanging when he testified.

Obviously he knows the Government wants a conviction and obviously a conversation like that.

Remember, it is not on tape, it was never written down, it didn't happen. He never said it to brag either. He spent hours and hours with Bradley.

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It didn't happen, ladies and gentlemen.

There is another thing just like that. I submit to you the strychnine idea is exactly like that. Remember how I went on and on about when is the first time you mentioned about the strychnine, and is it in your report or did you ever see anybody write it down and was it ever writ down. I thought you all thought I should leave and yo back home. But the point is that it just didn't happen. That's a nice little bit of window dressing to throw in. Remember, the testimony of Condello is that Kapatos was complaining about it. You saw Mr. Kapatos on the stand. The prosecutor didn't have the temerity to say, isn't it true that you did so-and-so or to bring out a motive or reason or to ask him or to suggest or to bring out any of his vast resources of the Government about that night. Nothing. And Condello said it didn't happen, and it was never written down and it is not in a report, and it is not anywhere. And on top of all that, it is just fiction and would make a good book, this supposed sinister plot.

I think you can use your common sense that in a penitentiary in Atlanta, people getting killed is no problem. It is just slough, eyewash, a little event that we can relate that nobody can come in to dispute but

grand & media draight out the property for

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they made a mistake. They named a person.

where did it happen, I don't know. I don't remember the dates. The fog rolls in. Can you put your hands on some specific facts in this case? There is nothing there.

Let's talk about the inception of this conspiracy. There's got to be some time if this thing
happened, this fictional thing that everybody would
remember the event. What does Mr. Perna say about this
thing and how it got started? Well, Mr. Perna says:

"Will you tell the Court and jury the substance of the conversation you had at that time with Anthony Verzino? What he said, what you said to the best of your recollection?

"A I explained to Anthony Verzino the conversation I had with Otvos in the recreation yard, and he wanted then to go then and grab Ralph Santanna at that time. I told him no, we shouldn't do that because Jean Claude said he didn't want to stir up any trouble at that time. He would rather leave it alone for the time being that he would settle it himself. He said he wanted to speak to Otvos, that we should go tack in the

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recreation yard and speak to Otvos."

There is your inception. That is the inception in relation to Otvos. What does Perna say about the Marcone thing? You know, Perna says that they went to Joseph Stassi to get an outside man when Verzino couldn't reach Red Marcone.

"A I had several conversations iwth

Verzino concerning Sorenson. Verzino didn't like

the idea that Sorenson would volunteer in this

business but he again made some attempt to reach

this fellow Red Marcone, and again he was ur uccess
ful as we had no alternative. He told me to

speak to Stassi."

Now that's what Perna says. What does Verzino say about that and what does Verzino say about the alleged inception of these events?

Here is what Verzino said how it started.

"I approached the Frenchman, Jean Claude
Otvos, with a message that Mr. Stassi asked me to
give him. And Mr. Stassi was trying to locate
a man by the name of Mandolini, an old associate of
his. I asked Ctvos if he thought he could get a
message to Mandolini."

Now, those are two entirely different descrip-

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means it didn't happen. Perna says he is approaching
Otvos because he sees him look nervous they get into
this conversation about Red Santanna and he comes back
and tells Verzino and Verzino finally goes out to see
Otvos. You see they are plugging Otvos in. They have
gotten separated. They had a basic format. They
didn't work out the details, they listened to the agents
and it is just not there. The evidence that relates to
what went on in this alleged conspiracy does not exist.

what does Verzino say about Marcone? You hear what Perna just said. He said Verzino, since he couldn't reach Marcone --

"Q You didn't go to Joe Stassi and ask him about it and see if he had an outside man because you ouldn't find Red Marcone?

"A No."

Verzino says that he didn't try it. Why didn't he go to Stassi? Because he couldn't get Marcone but Perna says that's why he went to him. Verzino says Joe Stassi told me to get a message, get this Mondolini thing, pile it all into this other case. It means nothing. Remember, Verzino had read Joe Stassi's transcript and where he admitted on the stand that he knew

"A Right."

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I think his own words show that that code doesn't mean or prove anything.

You will also recall a very basic inconsistency.

Perna testified that he and Verzino were to get one third of the profits. Now that's important. You are going to make, we'll calculate it, you are going to make around \$400,000 at one-third of the profits on the figures we have. Here is how it comes about. You got 120 kilos, the general purchase price as testified to is \$10,500. The general sales price is around \$22,500, \$10,000 per kilo markup times that by 120 kilos, and it comes to \$1,200,000.

Perna says we were to be one-third partners. That's \$400,000 divided two ways, \$200,000 each. Verzino says we got two per cent. Something is wrong. Perna and Verzino say we switch to getting goods. Now this just doesn't make sense. It does't make sense because it didn't happen. I submit to you the reason the story is "We switched to goods" is that there would have to be somebody who can account for the money. It would show up somewhere there that there would be some kind of record of it. Something, but goods made it tie into what they were really doing. They were really distributing narcotics, they weren't involved with this with

Mastantuono. Doesn't it make sense to you that if you can buy kilos, that you would get two kilos, at the purchase price of \$10,000, when you could have gotten your share at \$400,000? Now you could take those two kilos, cut them 4 for 1 and by exposing yourself to a tremendous criminal enterprise, bring back a total of \$160,000.

Would you go through the event of saying I don't want my \$400,000 for just sitting here in jail and instead take these two kilos? They don't even describe the percentages, their description is totally incredible. All of this is the inception, the creation, it doesn't exist.

Ladies and gentlemen, it doesn't exist right out of pure common sense of the sworn facts in the case.

I have the sensation I would like to read with you through this and compare line by line all this testimony.

THE COURT: I hope you will resist.

MR. GARLAND: I will, your Honor. I think what it boils down to though is this, you take nothing and add it to nothing and you've got nothing. That's what the testimony of Perna is when added to the testimony of Verzino and divide it by the testimony of Condello.

It comes out zero.

I submit to you the facts, the absolute contradiction it is pasted together with adhesive tape and bubble gum, and it is just not a case that involves Mr. Mastantuono. That's why you got the misidentification on the house, that's why you got Astuto who is in the Cirillo gang. That's why you have the whole thing. Because it has just been crammed together by people who had their motives.

Just a brief review of my notes and I will sit down. I would point out another thing to you. The witnesses who came are not on trial. Some men in jail hoping to get out would never admit their guilt on a case they would hope to upset. Some may be innocent, some may be guilty. Some candidly admitted they were guilty, others did not. That is not the issue in this case. Don't be sidetracked by that. You have had a lot of exposure now to the Atlanta Penitentiary that you hadn't before these events. Judge it based on the quality of the evidence and not by those circumstances.

One fact I leave with you, Verzino talks about a split load occurring on one day -- don't forget that -- in November. That just doesn't fit. I would ask you to recall how many times Verzino has lied. It just is

untold both under oath and not under oath. In his own behalf and otherwise.

There are many things that I had in my mind to say to you that I am sure that I have left out but I will leave them to you to be the advocate for our position when you are deliberating in this case. I ask you to follow to the letter the law as his Honor gives it to you. It is the bulwark of all freedom. It is a protection of you and it is a challenge to your courage to apply it properly. Over the Supreme Court is written the statement, "Equal justice under law."

I cannot believe that there can be any equal justice when you are asked to decide the guilt of another human being based on evidence that comes from the polluted sources that doesn't fit in this kind of a situation.

You know, we can buy anything, just about anything in this country. We can buy homes, we can buy clothes, we can buy cars. There are some things that you cannot bargain for and you cannot buy. You can't buy wisdom. You can't buy honesty. You can't buy love because if you buy love, it is not love that you get. You can't buy truth because you get truth with a cloud of suspicion, and you can't buy and bargain for testimony because that's all you have here, bought testimony. With

every possible pressure to deliver it totally. I ask
you to reject it. I ask you to evaluate it, consider
what I have referred to, please go over the things that
I lifet out that were apparent to you as human beings in
deciding this case and argue them on behalf of my client
because he has no remedy from your decision as to what
you decide about the adequacy of the Government's proof
but I submit to you that they have not proven a case under
the rules of law. That there is no certainty or
believability or honesty in the Government's case, and
I beg of you to return a verdict that says not prove by
credible evidence. You are not to be a dtective and to
solve all the problems of the world.

Is it proven by the standard of law or not, and I ask you sincerely to find that it has not been proven by reliable evidence, and I want to thank you so much for giving me your attention throughout my long remarks, for bearing with me as I have been for Joe Stassi. I now turn him over to you.

THE COURT: I presume you would like a few minutes?

MR. NESLAND: Just a few.

THE COURT: We will take a short recess, ladies and gentlemen.

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(Recess.)

(In open court jury present.)

THE COURT: Mr. Nesland.

MR. NESLAND: Now, as the Judge told you, prior to the time we even began summations this is what is called a rebuttal summation. I gave you at the outset approximately two and a half hours of what the Government contends the evidence showed in this case. I explained to you how the Government contended each of those pieces of evidence fit together, and I explained to you the theory under which the Government had presented this case.

Now, I can't go back into that and as you listened to defense counsel's summations, I had to expect of you and I'm sure you did consider as you listened to their arguments what my argument was in the initial summation. How I had explained this point, how I explained that point. I am limited now to respond to those arguments which are new.

The first argument that I want to respond to is the so-called fog, so-called gloss. You didn't hear that from Mr. Newman. You didn't hear that from Mr. Sorenson's lawyer, Mr. Naden. You only heard that from Mr. Garland and Mr. Kadish. I submit to you that they

were glossing it and that they were fogging it when they said to you time and time again there is a frame. He's framing them, he is framing them. Perna is framing them, Verzino is framing them, Condello is framing them,

Mastantuono is framing them. Everybody is framing them.

Well, you think about it.

Who is in on that frame? Did they ever tell you who put that frame together? Who is in on it?

Think about it. Who is in on it? There is no evidence, they couldn't prove, so they couldn't argue, obviously that these guys got together for a frame.

You know that Perna and Verzino told those stories independent of each other. You know that Condello told them independent of each other. You know that Mastantuono told them independent of the others. So there is no evidence that they schemed together. So, now what do they have to turn to? There is no scheme here. They weren't together framing them. So, now, it is the Government's suggestion. The Government suggested to these witnesses what they were to testify to. When Mastantuono identified every defendant in this — when he identified Mr. Stassi, when he identified Mr. Sorenson, when he identified Mr. Alaimo, when he identified Albert Pierro, when he identified Carmine Consalvo, he had never

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heard nor seen any other witness in this case. So what's the suggestion?

Photographs. He was shown photographs.

And he picked out Tony Stassi, mistaken identification.

He doesn't even know the other witnesses. He looks

through hundreds of photographs and he picks out Tony

Stassi. And if you look through Government's Exhibit S,

the photographs in there, there are three of them of

Anthony Stassi, three of them. Look at those photographs.

Who suggested to him to pick out Tony Stassi?

Agent Bocchichio? Agent Bocchichio is in on the frame.

Even though when he is first shown a group of photographs and he picks out Tony Stassi, Agent Bocchichio says no.

Suggestion. Then he looks at that whole book again and he picks out Tony Stassi's photograph. You look at those photographs and you see if they don't look like Tony Stassi.

Then you have Condello. When he's arrested, he begins to cooperate. He tells the Government about Joe Stassi, about Tony Stassi, about Bubby Sorenson, Verzino and Perna were still in the street and he's telling the Government then about these events that were happening in Atlanta, Georga.

How Joe Stassi was in on it, how Tony Stassi

Perna and Verzino are still on the street. So, what is Mr. Garland arguing to you, that Mr. Bradley said to him, we know you know about the Stassis. If you go through all of Condello's testimony, and if you go through all of Agent Bradley's testimony, there is not one answer, not one answer or one question that supports that there was ever a suggestion to Condello that we know you know about Joe Stassi.

Go through it, page by page by page. All the way through it. There is nothing there. Suggestion.

And when Perna and Verzino began cooperating, there is no evidence there that they ever schemed to tell the same story about Joe Stassi and about Tony Stassi and about Bubby Sorenson and about Albert Pierro.

The same person Mastantuono talks about, Tony Stassi; the same person Mastantuono talks about, Bubby Sorenson; the same person Mastantuono talks about.

So what do they argue there, because there is no way they can put them together, frame them together, Government's suggestion.

Do you understand what that means? That means that the Government had to suggest not only the names but every fact he testified about. About the meetings

in Atlanta, about Otvos, about the whole thing. They had to suggest all of that to them. That is not suggestion, ladies and gentlemen, that is subordination of perjury.

Who is doing it? Do you believe that?

Did they ever tell you that Tony Bocchichio was suborning perjury or Mr. Sear and myself when we were questioning these people long ago and you heard them testify that hour after hour after hour we spent preparing them. Of course, they prepare their witnesses, we prepare ours. Were we suborning perjury, suggesting to them how to com in here and put the whole thing together?

That's what they are saying. Talk about gloss. Why don't they say it like it is? That's what they are saying. Zealous agents, zealous prosecutors, certain you are zealous when you enforce the law, but to suborn perjury, to bring these witnesses in here and to suggest to them time and again, no, you have got to say this, you have got to say that, you have got to have that meeting. Those witnesses were put on the stand and they testified to the events that they were telling the Government long ago when they had never talked to each other.

MR. NADEN: Objection. That's not in evidence.

There is some evidence that some of those witnesses talked

to one another.

MR. NESLAND: That was after he told the Government about the events in this case.

THE COURT: Two of the witnesses were in with other lawyers in the case before then.

MR. NESLAND: That's when Perna and Verzino in 1973 were charged and they were in the State Courts together fighting their cases. I went through that on direct summation.

that they were scheming. If they were scheming and Perna broke out and Verzino began cooperating, you have Verzino's statement. Take that in there and see if you believe that, the August, '74 statement. You take it in there and see if you believe it and Perna begins cooperating and he tells you the story that he told you from the witness stand. If they were scheming back in '73, as I told you in the beginning of the summation, they certainly missed the boat as far as getting the right people into the right frame. You know, they weren't scheming then.

MR. NADEN: I'm sorry to interrupt you again.

I do not intend to interrupt Mr. Nesland again. 1974 is when they were in State Court.

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THE COURT: You don't have to interrupt on something like that.

MR. NESLAND: So, we have these four witnesses there and Mr. Garland says to you, well, where is Suzie Verzino and where is Cuzzie Perna.

Now, if the Government if it really happened, why didn't they put Cuzzie Perna on there. Why didn't they put Suzie Verzino on there. Would that bolster their credibility one bit if their wives, if their wives came in and testified consistent with what they said? They have been seeing their wives throughout this whole time period. That's the evidence of scheming. That's the kind of evidence they wanted.

You see, they don't have that between Perna,

Condello, Mastantuono and Verzino. But now you have it

with respect to Cuzzie and Suzie, so we bring in Cuzzie

and Suzie. They tell you you can't rely on these

witnesses. They are bad people, they have committed

lots and lots and lots of crimes. As I told you before

do you think that bothered Joe Stassi, do you think that

bothered Tony Stassi, do you think that bothered Bubby

Sorenson, do you think that bothered Charles Alaimo?

MR. NEWMAN: Objection, your Honor. I ask for a withdrawal of the jury. He knows very well those

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three witnesses had nothing to do with Alaimo. That was a very unfair comment from Mr. Nesland, but he knows better than that. I apologize for my shouting, your Honor.

THE COURT: You are correct.

MR. NESLAND: With respect to Mr. Alaimo, of course, it is only Mastantuono. But with respect to them --

THE COURT: Your motion is denied, Mr. Newman.
Your observation is well taken.

MR. NESLAND: What they did, they relied upon them because they were what they are.

Now, they want you to say don't rely on those witnesses. Don't rely on those witnesses.

why does defense counsel say that? Because they have start a deal. They got a gun at their heads. Is that gun pointed at their head, one that makes them lie or one that makes them tell the truth. The truth is the only way out for Mario Perna. The truth is the only way out for Anthony Verzino, and it is the easiest way out. If you tell the truth and the Government tells them, tell the truth, and they make deals conditioned on telling the truth, the easiest way out for them is to tell the truth. Not to manufacture a bunch of garbage. If they lied, if they deliberately lie and frame people,

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when they are sentenced, it won't be by the Government. It is going to be by the Court. The Court alone and the Court will be told what these witnesses have done. They know that. That's what their deals require that the Court be told all the crimes they have done. The Court be told everything about them.

(Continued on next page.)

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Mr. Garland read you Mr. Perna's testimony
about the key and he read you Mr. Mastantuono's testimony
about the key. Don't you think that will go before the
judge who sentences Mario Perna? Don't you think the
government will tell the court? Who brought it out? Who
brought out through Mastantuono that he was in Bergen County
and he saw Mario Perna making a key? Defense counsel?
The government did.

If you recall, Mr. Garland was also telling you what he brought out on cross-examination and he read the testimony of Mastantuono. Well, what was brought out on direct examination? I asked Mastantuono that question. The government brought it out. Who brought out that these witnesses were criminals? Who brought out that these witnesses were liars, were perjurers? The government did. It brought it out on direct examination. Who brought out that Mastantuono had perjured himself before the grand jury? The government. And who told you, "I lied before the grand jury; I lied to the French; I lied to the government?" Mastantuono told you that. He admitted his grand jury testimony was false, where it was false, with respect to Astuto, the dead man. That is what he lied about. The dead man. Did the government find that out? Sure they did. But who told them? Mastantuono told them.

Remember, ck in November, 1974, he came to Agent Bocchichio and he said, "I lied about the Cardon station wagon; it went to Stassi, not to Astuto."

That was about a year and a half after he testified in the grand jury that it went to Astuto. Did the government hide that? It brought it out through Mr. Mastantuono.

And he told you why he lied. It was because of Danielle Ouimet. You heard her testimony, too. Throughout that whole period of time he was trying to keep her out.

Mr. Kadish asked why in the April grand jury would he lie? Danielle had confessed everything but that she knew it was heroin. Precisely. Precisely. At that time and up until this year she constantly said she didn't know it was heroin. So why did he lie? Because the Cardon car, as you know from Mastantuono's testimony and as you know from Ouimet's testimony, was the car that she helped load with heroin in Montreal. Danielle Ouimet admitted all her lies. Who brought that out? The government.

They claim that the government is guilty of subornation of perjury. What else would one say when all the evidence is in against you, as it is against Joseph Stassi and Anthony Stassi and Bubby Sorenson. You can't for the life of you show how those witnesses can tell the same story unless you say it is a frame.

MR. GARLAND: Your Honor, Mr. Bradley said:
"I first spoke to him regarding this matter during this
period. I stated to him I knew he was familiar with Anthony
Stassi and his narcotic dealings."

MR. NESLAND: The defendants have to say this, because it is either the truth or it is a frame. The problem they have is there is no way in this case to prove that these witnesses got together and framed them; so try the government; the government did it. Well, I submit to you that is ridiculous and it is obviously ridiculous.

Mr. Kadish talked about gloss. Well, let's talk about the gloss with respect to the delivery at the Mirabella house. He says Mastantuono testified it was a Saturday. Did he show you the records? The hotel records of the Abbey-Victoria? Did he go through Mastantuono's passport? If you recall, I showed you those records on the opening summation. Mastantuono came in to New York on September 27th, Sunday, and he testified and Ouimet testified. He testified that it was early the next morning or the morning thereafter, the 28th or the 29th that the car was delivered. That is a weekday, Monday or Tuesday, unless you reverse the calendar, unless we say he came in on a Sunday and the next day was Saturday, the calendar was reversed that year. Gloss? He wants you to try

Mirabella: he wants you to try Autera, he wants you to try the agents, he wants you to try the prosecutor -- anybody but Tony Stassi, his client. All the evidence shows, ladies and gentlemen, Tony Stassi to be the outside man and the big man going to France, making the connections, making the arrangements, negotiating for the heroin to come into New York.

Badger Mr. Mirabella? You listened to me. Sure,

I questioned him on those tolls, tolls that reflected

calls to Carole Hoover, Stassi's girlfriend, tolls that

reflected calls to Tony Stassi during a time period in which

he says that he does not recall Sal Autera being there during

that period. And then I pressed him. Of course I would

press him.

"Do you recall when Sal Autera was there?

"Well, it was either May of '74 or May of '75."

But he came up one time, he said, during that time with his family. What did Sal Autera say? "I came up twice, Christmas of '74 and February of '75." Twice within the last nine months Mr. Autera and his family have visited from Florida Mr. Mirabella. Mr. Mirabella couldn't recall when, and he could only recall there was one visit. The point of that was not to badger him, but to show to you that within nine months he could not remember these visits.

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Do you really believe that he could recall five years ago
that Sal Autera asked him on a weekday to borrow his garage?
Mirabella was not home; his family was not home.

The point is that you don't try Mirabella, you don't try Autera, you try Anthony Stassi, you try Joe Stassi, you have to find their guilt beyond a reasonable doubt.

And they still haven't explained how all these witnesses can name Tony Stassi.

Let's talk about what Mr. Kadish says, that the government has not given you any evidence at all. None that Tony Stassi was ever in Europe. Do you recall we called an officer from the Passport agency and she testified that the Passport agency does not keep expired passports, they return them to the passport holder. So the government introduced into evidence Government's Exhibit 103. You don't have the passport; you have the passport application. And if you look at Government's Exhibit 103, the passport application of Tony Stassi, September, 1974, if you look, there is an area that you fill out, number of previous trips abroad within the last 12 months. It doesn't ask for the last four years. The last 12 months. 10 to 12 times. And you also have the countries intended to be visited: Europe. No evidence that Mr. Stassi has been abroad? The only evidence that exists.

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Now we get the real fog, the real gloss, and that is the gloss about the glasses. Mr. Kadish read to you a number of reports that were put in of Mastantuono's debriefing. But he didn't go through these notes. These are the notes that Bocchichio made of his debriefing of Mastantuono back in July and August. And if you read these: "Bec and Mastantuono drove around the block a few times and parked in front of the red car. At this time he and Bec exited the vehicle and met a man in the street which Mastantuono has identified as one Andre Andreani. Bec introduced Mastantuono to Andreani who informed him that he was not ready yet and they went to a snack bar to have coffee. Andreani exited the snack bar, came back a short time later and informed them that they were ready to go. He and Bec went to the Citroen and Andreani went to his car. Andreani informed him that they were going to go around the block and when he came back they were to follow. At this time Mastantuono noticed Andreani meet another man who entered the red car with Andre Andreani. After they went around the block and passed them, Mastantuono pulled behind them and they started their journey."

No evidence at all? Mr. Mastantuono testified that Tony Stassi was in that red charger. It is right there. And if you look in the other statements, he says

Tony Stassi was in that red charger. Then after they left the diner, "They drove approximately one-quarter of a mile and went to a private house. They entered the driveway and drove to the back of the house where they entered the garage which was located directly under the house. In the garage they say a man who wore glasses."

Now the corrections, and you can read those.

Bocchichio made those, spoke to them in French, 'Don't make any noise, there are people sleeping.' This person was the individual who had gotten into the car with Andre in New York."

There is the glasses and that is exactly what Mastantuono testified to, that he saw Stassi with glasses either in the garage or when they were carrying the suitcases out from the house. The same thing he said there.

Now, if you look through those statements, and you have to recall that Mastantuono was interviewed on a number of occasions about this event, if you look through this you will find that in some of these statements he put Mr. Stassi in the white Cadillac where you would expect him to be, with Mr. Sorenson. Is he lying about it? Or is he just trying to recall now and trying to recall last year and the year before and the year before what had happened two years even before that. There has been all

this association evidence. Nothing to it? Well, did

he discuss with you Tony Stassi's telephone numbers? Three

of them are in Anthony Verzino's book, seized from Verzino

when he was arrested in 1974. Did he go through that with

you? Did he go through Mr. Stassi's cards, the ones

I went through with all the names and numbers? Did he go

through that with you? And why would Bubby Sorenson's

number appear under Bill and Bob? Nobody is glossing

over the evidence, ladies and gentlemen. You just can't

in two and a half hours or four hours or six hours or ten

hours go through all the evidence in this case detail by

detail. But I submit to you that the opening summation

explained to you what happened in this case and why it hap
pened and explains the facts to you as it came from the

government's case.

You may recall that Mr. Newman in his summation made a dramatic point of the fact that wen Mastantuono came back in November of 1974 he told Agent Bocchichio that Stassi was in the garage, but he didn't say anybody else was there. Now, that is why we have this statement which most of us have made to you that what counsel say is not evidence. What is evidence is what you heard from the witness stand and what you saw as exhibits. Because we are advocates. And if you read the testimony, Agent

Bocchichio's testimony on that point, you will find-and this is when Agent Bocchichio is testifying about
Mastantuono telling him in November of 1974 that it was
not Astuto, it was Stassi, Bocchichio on direct:

"Back in November when he told you about the house did he tell you anything else with respect to that delivery?

"A Yes, he told me that the delivery was not delivered to who he had originally told me he had delivered it to.

"Q Who had he originally told you?

"A He said it was the Astuto, Cirillo organization.

I asked him who it was delivered to and he told me it
was delivered to Mr. Stassi. He said it was delivered
to Anthony Stassi and the same people he had delivered
the first shipment to and he said that Pierro was in the
house, the man in the tuxedo, he had seen him in the album."

So in November, '74, he was telling Agent Bocchichio the same people were at the New Jersey garage that he had delivered the Citroen to.

MR. NEWMAN: I respectfully suggest this is improper rebuttal, because it does not rebut what I said.

THE COURT: The jury will decide whether it rebuts it or not. I am not saying I am agreeing with what he says; I mean it is permissible argument.

MR. NESLAND: Now, Mr. Newman suggested to you

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that the reason in February and March of this year the motive that Mastantuono had to identify Consalvo and Alaimo -and of course, his client is Mr. Alaimo -- the leason he had for doing that was to help him with parole, to get him an early parose. His parole date was October, 1975, and he had this burning desire to move it up. What did Mastantuono testify to? He was ready to do his time. What did Ouimet testify to? They asked her on cross-examination, "Did he ever talk to you about getting parole? Did he talk to you about getting out on early parole?" She testified he was always going to do his two-thirds. Then the judge told you that that is the time you do, two-thirds. So there is no evidence here he had any burning desire to get out four or five months earlier. But I suggest to you if the motive for putting those people in this was to get out, why didn't he do it back in June, July, August, 1974, back in 1973 when he was facing a lifetime in jail? Why? If he was just going to pick anybody out, why not pick them out when he was facing a lifetime sentence? He saw hundreds of photographs. If he was just interested in putting anybody in those cars and his motive for doing it was to make sure he got out, why didn't he do it when he was facing a lifetime sentence. But he didn't. He didn't because he never saw Mr. Alaimo's picture, he never saw Mr. Consalvo's

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picture back then, he never saw Mr. Sorenson's picture back then; he didn't see them until February and March of 1975.

That is why he identified them.

Mr. Naden asked you why did Detective Molfetta spend a great deal of time with Bubby Sorenson in 1974 and never identify the lighter? What had happened? By 1974 Condello had been arrested and cooperated; Perna was arrested Verzino was arrested. Three of the people he had been working with were out of Atlanta, and two of them whom he had shown that lighter to had been arrested. Do you think he is oing to keep that lighter that he got from the Frenchman? And Mr. Naden argued the government never proved that Sorenson went to France, that the government never proved he was meeting Frenchmen. That was not his role. That was Tony Stassi's role, to go to France. Mr. Sorenson's role was to pick up and deliver narcotics. But if you look at the 1973 Ovington Avenue tolls, and those are the only tolls from Ovington Avenue, you will notice that in August of 1973 there are two calls to France. And it is in September, if you recall, that Condello went over to Mr. Sorenson's apartment while he was hiding, and that was when Mr. Sorenson told Condello that "Tony Stassi is over in France working on another load and you can have a piece of it."

MR. NADEN: I am not sure that is in the evidence and I just want to have my objection noted.

THE COURT: The jury will remember.

MR. NESLAND: Mr. Kadish when he began his summation said to you, "God forbid that you should make a mistake and convict an innocent man." Of course, you should feel that way. But God forbid that you should acquit a guilty man. And in this case the government has proved by its evidence that Joseph Stassi is guilty, that Tony Stassi is guilty, that Bubby Sorenson is guilty, and that Mr. Alaimo is guilty, and it has proven that beyond a reasonable doubt. I ask you on behalf of the government to deliberate, to go through the evidence and see if you are not convinced beyond a reasonable doubt, beyond any doubt that these defendants are guilty and you should convict them. Thank you.

MR. NEWMAN: May we have a moment at the side bar with the stenographer, please, your Honor?

THE COURT: Ladies and gentlemen, it is now ten minutes of 5. I would assume that you probably would rather get to work than have a rest. We could charge the jury at this time and have you start your deliberations. I will excuse you for a few minutes.

(Jury excused.)

MR. NEWMAN: Your Honor, I would respectfully move-

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I have not kept count -- but I would move again for a mistrial, and in deference to Mr. Nesland I won't ask for the withdrawal of a juror. It seems to upset him. I move for a mistrial on behalf of my client. Mr. Nesland at this late hour has injected into this case the credibility of the government behind witnesses and indicated a public need to obtain a conviction. I respectfully submit to your Honor that I used none of these phrases. He said, "God forbid you should acquit a guilty man." I don't have the case at my fingertips, but that has been condemned by the Court of Appeals in the Second Circuit. He further said, "See if you are not convinced beyond a reasonable doubt, beyond any doubt, that these defendants are guilty and you should convict them." I respectfully make this motion on behalf of Alaimo because I don't think anything I said could have triggered that.

THE COURT: Your motion is denied.

MR. NADEN: The defendant Sorenson joins in that motion. I also would like to add that in his remarks on rebuttal Mr. Nesland did put the credibility of the government behind these witnesses, saying that the deal for them was to tell the truth, as if it is the truth.

THE COURT: I will deal with that on my charge.

MR. GARLAND: May it please the Court, on behalf

of the defendant Joseph Stassi I move for a mistrial on the basis that the agreements entered into by the government with the witnesses Perna and Verzino are unconscionable to the extent that they put the government in the position of being part of the witness. They put them in the position of having the testimony delivered with the implied assertion that it is the government's opinion they are telling the truth or they would not put them on. It is done artfully. This prejudice comes home in light of the arguments, in light of the testimony.

THE COURT: You recollect that I charged the jury about the time that the agreement was read in evidence.

I think the jury understands that that is not the case.

MR. KADISH: Your Honor, the jury needs to know we have not made any surrebuttal. I think they should be told we cannot make a surrebuttal. And I join in the mistrial motions.

(Robing room.)

MR. KADISH: We are talking about Exhibit 103 which was introduced by the Government. We had looked at it before and Mr. Nesland just argued from it.

My client's position is that number one, on the left-hand side of the form above his picture are two blocks. He says that where it says, "Proposed length of stay indef. and number of previous trips abroad within the last 12 months" it looks like 10 to 12 which looks like a question mark. That is not his handwriting. He never wrote it in. It is an outright forgery. He is very disturbed about it. He wants me to conduct an investigation of this and a hearing on it.

tion form for a passport. When you fill out a form for a passport, you don't put none of this stuff in. It don't require for you to put any of that stuff in it. All it says where you intend to visit, Europe. I don't know when I'm going because it definitely, I claim this has been tarpered with.

MR. KADISH: It looks like there is some difference in the handwriting.

MR. NESLAND: It is too late. They should have cross-examined on it.

DEFENDANT ANTHONY STASSI: I never seen it,
Mr. Nesland.

THE COURT: You made your point.

MR. KADISH: We couldn't cross-examine it.

It has to be attacked collaterally. The woman had no knowledge of it. I asked her about it, she had no knowledge of the specific document.

THE COURT: All right, you made the point.

MR. KADISH: I made the point for the record,

and we will pursue the matter.

I also want to make the point when Mr. Nesland did say 10 to 12, he did omit which apparently was a question mark which I think should have been read to the jury from the box.

THE COURT: It looks clearly like a question mark.

MR. KADISH: It does. Mr. Stassi says he didn't put it there.

THE COURT: If you want me to call it to the jury's attention that is a question mark, I will.

MR. NESLAND: It is in evidence, they will see it.

to it.

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1	ps3	
2		DEFENDANT ANTHONY STASSI: Mr. Nesland, you
3	pointed out	
4		MR. KADISH: The Judge can't do any more than
5	that.	
6		THE COURT: I will bring it to the jury's
7	attention.	
8		(End of conference in robing room.)
9		(Continued on next page.)
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United States of America Joseph Stassi, et al.

(Knapp, J.)

CHARGE OF THE COURT

(Jury in box.)

THE COUR1: Ladies and gentlemen, before we get to the charge I have one bit of housekeeping. Some of defense counsel were concerned that you may think the reason they did not answer Mr. Nesland is that they had nothing to say. The reason they did not answer is they were not allowed to under the rules. The rules are that first Mr. Nesland speaks, then they speak, and then Mr. Nesland speaks and then I speak.

One other thing that Mr. Kadish asked me to call to your attention is the passport application, that on there there are the number of previous trips abroad within the last 12 months asked for, and that this says 11 to 12, and then there is a mark after that 11 to 12 which may or may not be a question mark. You will look at it if you wish to.

Let me now give you some preliminary logistics as to what is going to happen. In the first place, in a shorter case I try to deliver the charge more or less extemporaneously, because that is much easier for me and for you, rather than looking down at notes. But in a case

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK,
COUNTY OF RICHMOND 88.:

EDWARD BAILEY being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. , 19 76 at 10302. That on the 30 day of June deponent served No. 1 St. Andrews Pl. NYC the within Appendix upon U.S. Atty., So. Dist. of N.Y. herein, by delivering a true Appellee copy thereof to him personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Appellee therein.

Sworn to before me, this 30 day of June

1976

Edward Bailey

WILLIAM BAILEY

Notary Public, State of New York

No. 43-0132945

Qualified in Richmond County

Commission Expires March 30, Dank 1977